

AMENDED IN ASSEMBLY AUGUST 23, 2012

SENATE BILL

No. 1026

Introduced by Committee on Budget and Fiscal Review

February 6, 2012

~~An act relating to the Budget Act of 2012.~~ *An act to amend Sections 6253.2, 6531.5, 110001, 110003, 110011, 110012, 110013, 110019, 110022, 110023, 110024, 110029, 110031, 110034, and 110035 of the Government Code, to amend Sections 1502 and 1531.15 of the Health and Safety Code, to amend Sections 4094.7, 5405, 6500, 10101.1, 11265.45, 11265.47, 11322.8, 11325.21, 11325.23, 11334.8, 11451.5, 12300.5, 12300.7, 12302.21, 12302.25, 12302.6, 12306, 12306.1, 12306.15, 12330, 14186.35, 18906.55, and 18987.7 of the Welfare and Institutions Code, and to amend Section 17 of Chapter 45 of the Statutes of 2012, relating to human services, and making an appropriation therefor, to take effect immediately, bill related to the budget.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1026, as amended, Committee on Budget and Fiscal Review.
~~Budget Act of 2012.~~ *Human services.*

Existing law provides for the county-administered In-Home Supportive Services (IHSS) program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing law authorizes services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium. Existing law establishes the California In-Home Supportive Services Authority (Statewide Authority) and requires the

authority to be the entity authorized to meet and confer in good faith regarding wages, benefits, and other terms and conditions of employment with representatives of recognized employee organizations for any individual provider who is employed by a recipient of supportive services.

Existing law establishes the In-Home Supportive Services Employer-Employee Relations Act, which serves to resolve disputes regarding wages, benefits, and other terms and conditions of employment between the Statewide Authority and recognized employee organizations. Existing law authorizes individual providers to form, join, and participate in the activities of employee organizations for the purpose of representation on all matters within the scope of representation. Under existing law, the Statewide Authority is the employer of record, for collective bargaining purposes, of individual providers of in-home supportive services in each county upon implementation by a county.

This bill, would, among other things, clarify that predecessor agencies to the Statewide Authority cannot meet and confer in good faith with a recognized employee organization after the Statewide Authority assumes those agencies' rights and responsibilities. The bill would also require, if the Statewide Authority and the recognized employee organization negotiate changes to locally administered health benefits, the Statewide Authority to give a county and a specified entity 90 days' notice before the changes are implemented. This bill would provide that the scope of representation shall exclude providing assistance to IHSS recipients through the establishment of emergency backup services. This bill would change references from the employer and public agency to the Statewide Authority in these provisions, and would make other technical and clarifying changes to these provisions.

Existing law authorizes managed care health plans, as defined, to assume the authority, previously granted to counties, to contract for the provision of in-home supportive services with a qualified agency, as defined, subject to specified restrictions and requirements. Existing law requires qualified agencies to establish procedures to ensure specified contract limitations on caseload are being met and there is coordination of information among managed care health plans, qualified agencies, counties, and the department.

This bill would, among other things, create an alternative means to meet a documentation requirement for entities seeking authorization as a qualified agency, as specified, and would specify that counties and

managed care health plans are also required to establish those procedures. By increasing the duties of local entities, this bill would create a state-mandated local program. This bill would provide that the state shall be immune from liability resulting from the state's implementation of those provisions, and from the negligence or intentional torts of a contract provider providing services pursuant to those provisions.

Existing law requires all counties, commencing July 1, 2012, to have a County IHSS Maintenance of Effort (MOE), and requires counties to pay the County IHSS MOE instead of paying the nonfederal share of IHSS costs, as specified.

This bill would specify that the MOE shall be adjusted for the annualized cost of increases in provider wages or health benefits that are locally negotiated, mediated, or imposed before the Statewide Authority assumes specified responsibilities for certain counties. This bill would require the Department of Finance to consult with a specified organization, as prescribed, to implement the MOE.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. One of the methods by which these services are provided is pursuant to contracts with various types of managed care plans. Existing law provides that, not sooner than March 1, 2013, IHSS shall be a Medi-Cal benefit available through managed care health plans in specified counties, and requires managed care health plans to, among other things, enter into a contract with the State Department of Social Services to pay wages to IHSS providers, as specified. Existing law requires the department to assume responsibility for providing workers' compensation coverage for specified employees who provide in-home supportive services pursuant to contracts with counties.

This bill would, among other things, require managed care health plans to enter into a contract with the department to pay benefits to IHSS providers, as specified. This bill would provide that a managed care health plan shall not be deemed to be the employer of an in-home supportive services provider for purposes of liability, as specified. This bill would also require the department to provide workers' compensation coverage for specified employees pursuant to contracts with managed care health plans.

Existing law provides that specified provisions relating to the California In-Home Supportive Services Authority and managed care health plans that contract for the provision of in-home supportive services shall become inoperative under certain circumstances.

This bill would include among those provisions the In-Home Supportive Services Employer-Employee Relations Act.

Existing law, the California Community Care Facilities Act, among other provisions, authorizes a licensee of certain adult residential facilities or group homes to utilize secured perimeters, as defined. Under existing law, only individuals meeting specified criteria may reside in a facility that utilizes secured perimeters. These criteria include a requirement that the individual is not a foster care child under the jurisdiction of the juvenile court pursuant to specified law.

This bill would revise the list of laws, pursuant to which the juvenile court has jurisdiction over a foster child, for purposes of eligibility to reside in a facility with secured perimeters, as described above.

Existing law requires the State Department of Social Services to establish an income reporting threshold for CalWORKs assistance units that do not include an eligible adult. Under existing law, a recipient in one of these assistance units may report to the county any changes in income that may increase the recipient's grant, as specified.

This bill would revise procedures for redetermining a recipient's grant under the circumstances described above, including requiring the county to issue the increased benefit amount within 10 days of receiving the recipient's verification of income change. By increasing county duties under the CalWORKs program, this bill would impose a state-mandated local program.

Existing law authorizes a student required to participate in CalWORKs welfare-to-work activities to continue in an undergraduate degree or certificate program that leads to employment, if certain conditions are met. A student subject to these provisions is required to concurrently participate in welfare-to-work activities, if participation in educational or vocational training is not at least 32 hours per week.

This bill would decrease the number of required hours before concurrent welfare-to-work participation is required, to 30 hours per week, or 20 hours per week for an adult recipient in a one-parent assistance unit that does not include a child less than 6 years of age.

Under existing law, for a family that does not include a needy child qualified for CalWORKs benefits, a pregnant mother is eligible for aid for the month in which the birth is anticipated, and the 3 months

immediately prior to that month. However, CalWORKs aid is required to be paid to a pregnant woman who is also eligible for the Cal-Learn Program, as specified, at any time after verification of pregnancy.

Existing law requires the Cal-Learn Program to be fully operative on April 2, 2013, with a transitional phase-in period for counties from July 1, 2012 to March 31, 2013.

This bill would revise provisions specifying that a pregnant woman with no other children who is, or would be, eligible for the Cal-Learn Program, is eligible for CalWORKs aid, as specified, at any time after verification of pregnancy.

Under existing law, prior to the initial licensure or first renewal of a license of any person to operate or manage specified psychiatric and mental health care facilities, the State Department of Social Services is required to submit fingerprint images and other information pertaining to the applicant or licensee to the Department of Justice. Existing law imposes similar requirements on the State Department of Social Services upon the employment of, or contract with or for, any direct care staff.

This bill would transfer the responsibilities of the State Department of Social Services with respect to submitting the fingerprint images and information described above to the applicant, licensee, or direct care staff person, as appropriate.

Existing law requires each county to pay 30% of the nonfederal share of costs of administering the CalFresh program.

Existing law also requires counties to expend an amount for programs that provide services to needy families that, when combined with the funds expended above for the administration of the CalFresh program, equals or exceeds the amount spent by the county for corresponding activities during the 1996–97 fiscal year.

Existing law provides that any county that equals or exceeds the amount spent by the county for corresponding activities during the 1996–97 fiscal year entirely through expenditures for the administration of the CalFresh program in the 2010–11 and 2011–12 fiscal years shall receive the full state General Fund allocation for the administration of the CalFresh program without paying the county's share of the nonfederal costs for the amount above the 1996–97 expenditure requirement.

This bill would extend counties' eligibility to receive the full allocation for CalFresh administration under the above circumstances to the 2012–13 state fiscal year.

This bill would make various other procedural and technical changes to provisions relating to health and human services programs.

This bill would appropriate \$1,000 from the General Fund to the California Health and Human Services Agency.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6253.2 of the Government Code, as added
2 by Section 1 of Chapter 804 of the Statutes of 1999, is amended
3 to read:

4 6253.2. (a) Notwithstanding any other provision of this chapter
5 to the contrary, information regarding persons paid by the state to
6 provide in-home supportive services pursuant to Article 7
7 (commencing with Section 12300) of Chapter 3 of Part 3 of
8 Division 9 of the Welfare and Institutions Code or personal care
9 services pursuant to Section 14132.95 of the Welfare and
10 Institutions Code, shall not be subject to public disclosure pursuant
11 to this chapter, except as provided in subdivision (b).

12 (b) Copies of names, addresses, and telephone numbers of
13 persons described in subdivision (a) shall be made available, upon
14 request, to an exclusive bargaining agent and to any labor
15 organization seeking representation rights pursuant to subdivision
16 (c) of Section 12301.6 or Section ~~12302~~ 12302.25 of the Welfare
17 and Institutions Code or Chapter 10 (commencing with Section
18 3500) of Division 4 of Title 1. This information shall not be used
19 by the receiving entity for any purpose other than the employee

1 organizing, representation, and assistance activities of the labor
2 organization.

3 (c) This section shall apply solely to individuals who provide
4 services under the In-Home Supportive Services Program (Article
5 7 (commencing with Section 12300) of Chapter 3 of Part 3 of
6 Division 9 of the Welfare and Institutions Code) or the Personal
7 Care Services Program pursuant to Section 14132.95 of the Welfare
8 and Institutions Code.

9 (d) Nothing in this section is intended to alter or shall be
10 interpreted to alter the rights of parties under the
11 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section
12 3500) of Division 4) or any other labor relations law.

13 (e) *This section shall become operative only if Chapter 45 of*
14 *the Statutes of 2012 is deemed inoperative pursuant to Section 15*
15 *of that chapter.*

16 SEC. 2. *Section 6253.2 of the Government Code, as amended*
17 *by Section 1 of Chapter 45 of the Statutes of 2012, is amended to*
18 *read:*

19 6253.2. (a) Notwithstanding any other provision of this chapter
20 to the contrary, information regarding persons paid by the state to
21 provide in-home supportive services pursuant to Article 7
22 (commencing with Section 12300) of Chapter 3 of Part 3 of
23 Division 9 of the Welfare and Institutions Code, or services
24 provided pursuant to Section 14132.95, 14132.952, or 14132.956
25 of the Welfare and Institutions Code, shall not be subject to public
26 disclosure pursuant to this chapter, except as provided in
27 subdivision (b).

28 (b) Copies of names, addresses, and telephone numbers of
29 persons described in subdivision (a) shall be made available, upon
30 request, to an exclusive bargaining agent and to any labor
31 organization seeking representation rights pursuant to Section
32 12301.6 or ~~12302~~ 12302.25 of the Welfare and Institutions Code
33 or the In-Home Supportive Services Employer-Employee Relations
34 Act (Title 23 (commencing with Section 110000)). This
35 information shall not be used by the receiving entity for any
36 purpose other than the employee organizing, representation, and
37 assistance activities of the labor organization.

38 (c) This section shall apply solely to individuals who provide
39 services under the In-Home Supportive Services Program (Article
40 7 (commencing with Section 12300) of Chapter 3 of Part 3 of

1 Division 9 of the Welfare and Institutions Code), the Personal Care
2 Services Program pursuant to Section 14132.95 of the Welfare
3 and Institutions Code, the In-Home Supportive Services Plus
4 Option pursuant to Section 14132.952 of the Welfare and
5 Institutions Code, or the Community First Choice Option pursuant
6 to Section 14132.956 of the Welfare and Institutions Code.

7 (d) Nothing in this section is intended to alter or shall be
8 interpreted to alter the rights of parties under the In-Home
9 Supportive Services Employer-Employee Relations Act (Title 23
10 (commencing with Section 110000)) or any other labor relations
11 law.

12 (e) *This section shall become inoperative only if Chapter 45 of*
13 *the Statutes of 2012 is deemed inoperative pursuant to Section 15*
14 *of that chapter.*

15 SEC. 3. *Section 6531.5 of the Government Code is amended*
16 *to read:*

17 6531.5. (a) There is hereby created the California In-Home
18 Supportive Services Authority, hereafter referred to as the
19 Statewide Authority. Notwithstanding any other law, the Statewide
20 Authority shall be deemed a joint powers authority created pursuant
21 to this article and is a public entity separate and apart from the
22 parties that have appointing power to the Statewide Authority or
23 the employers of those individuals so appointed. Notwithstanding
24 the requirements of this article, an agreement shall not be required
25 to create the Statewide Authority.

26 (b) The Statewide Authority shall consist of the following five
27 members:

28 (1) Two members shall be county officials who are appointed
29 by, and who serve at the pleasure of, the Governor.

30 (2) Three members shall be the Director of Social Services, the
31 Director of Health Care Services, and the Director of Finance in
32 their ex officio capacities, or their duly appointed representatives.

33 (c) The members of the Statewide Authority shall serve without
34 compensation.

35 (d) The Statewide Authority shall not be subject to Sections
36 6501, 6505, and 53051.

37 (e) The Statewide Authority shall appoint an advisory committee
38 that shall be comprised of not more than 13 individuals. No less
39 than 50 percent of the membership of the advisory committee shall
40 be individuals who are current or past users of personal assistance

1 services paid for through public or private funds or recipients of
2 ~~services~~ in-home supportive *services*.

3 (1) At least two members of the advisory committee shall be a
4 current or former provider of in-home supportive services.

5 (2) Individuals who represent organizations that advocate for
6 people with disabilities or seniors may be appointed to the advisory
7 committee.

8 (3) Individuals from each representative organization that are
9 designated representatives of IHSS providers shall be appointed
10 to the advisory committee.

11 (4) The Statewide Authority shall designate a department
12 employee to provide ongoing advice and support to the advisory
13 committee.

14 (f) Prior to the appointment of members to a committee
15 authorized by subdivision (e), the Statewide Authority shall solicit
16 recommendations for qualified members through a fair and open
17 process that includes the provision of reasonable written notice to,
18 and reasonable response time by, members of the general public
19 and interested persons and organizations.

20 (g) The advisory committee established pursuant to subdivision
21 (e) shall provide ongoing advice and recommendations regarding
22 in-home supportive services to the Statewide Authority, the State
23 Department of Social Services, and the State Department of Health
24 Care Services.

25 *SEC. 4. Section 110001 of the Government Code is amended*
26 *to read:*

27 110001. It is the purpose of this title to promote full
28 communication between the California In-Home Supportive
29 Services Authority (the Statewide Authority) and the recognized
30 employee organization representing—~~independent~~ *individual*
31 providers by providing a reasonable method of resolving disputes
32 regarding wages, benefits, and other terms and conditions of
33 employment, as defined in Section 110023, between the Statewide
34 Authority for in-home supportive services and recognized
35 employee organizations. It is also the purpose of this title to
36 promote the improvement of personnel management and
37 employer-employee relations within the Statewide Authority by
38 providing a uniform basis for recognizing the right of ~~independent~~
39 *individual* providers to join organizations of their own choice and
40 be represented by those organizations for purposes of collective

1 bargaining with the Statewide Authority. This title is intended to
2 strengthen methods of administering employer-employee relations
3 through the establishment of uniform and orderly methods of
4 communication between the recognized employee organizations
5 and the Statewide Authority. Except as expressly provided herein,
6 this title is not intended to require changes in existing bargaining
7 units or memoranda of agreement or understanding.

8 *SEC. 5. Section 110003 of the Government Code is amended*
9 *to read:*

10 110003. As used in this title:

11 (a) “Board” means the Public Employment Relations Board
12 established pursuant to Section 3541.

13 (b) “Employee” or “individual provider” means any person
14 authorized to provide in-home supportive services pursuant to
15 Article 7 (commencing with Section 12300) of Chapter 3 of Part
16 3 of Division 9 of the Welfare and Institutions Code, and Sections
17 14132.95, 14132.952, and 14132.956 of the Welfare and
18 Institutions Code, pursuant to the individual provider mode, as
19 referenced in Section 12302.2 of the Welfare and Institutions Code.
20 As used in this title, “employee” or “individual provider” does not
21 include any person providing in-home supportive services pursuant
22 to the county-employed homemaker mode or the contractor mode,
23 as authorized in Section 12302 of the Welfare and Institutions
24 Code. Individual providers shall not be deemed to be employees
25 of the Statewide Authority for any other purpose, except as
26 expressly set forth in this title.

27 (c) “Employee organization” means an organization that includes
28 employees, as defined in subdivision (b), and that has as one of
29 its primary purposes representing those employees in their relations
30 with the Statewide Authority.

31 (d) “Employer” means, for the purposes of collective bargaining,
32 the Statewide Authority established pursuant to Section 6531.5.
33 The in-home supportive services recipient shall be the employer
34 of an individual in-home supportive services provider with the
35 unconditional and exclusive right to hire, fire, and supervise his
36 or her provider.

37 (e) “In-home supportive services” or “IHSS” means services
38 provided pursuant to Article 7 (commencing with Section 12300)
39 of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions

1 Code, and Sections 14132.95, 14132.952, and 14132.956 of the
2 Welfare and Institutions Code.

3 (f) “In-home supportive services recipient” means the individual
4 who receives the in-home supportive services provided by the
5 individual provider. The in-home supportive services recipient is
6 the employer for the purposes of hiring, firing, and supervising
7 his or her respective individual provider.

8 (g) “Mediation” means effort by an impartial third party to assist
9 in reconciling a dispute regarding wages, benefits, and other terms
10 and conditions of employment, as defined in Section 110023,
11 between representatives of the employer and the recognized
12 employee organization or recognized employee organizations
13 through interpretation, suggestion, and advice.

14 (h) “Meet and confer in good faith” means that the employer,
15 or those representatives as it may designate, and representatives
16 of recognized employee organizations, shall have the mutual
17 obligation personally to meet and confer promptly upon request
18 by either party and continue for a reasonable period of time in
19 order to exchange freely information, opinions, and proposals, and
20 to endeavor to reach agreement on matters within the scope of
21 representation prior to the adoption of the annual Budget Act.

22 (i) “Predecessor agency” means a county, ~~a local public~~
23 ~~authority, or a nonprofit consortium~~ *an entity* established pursuant
24 to Section 12301.6 of the Welfare and Institutions Code before
25 the effective date of this title.

26 (j) “Recognized employee organization” means an employee
27 organization that has been formally acknowledged as follows:

28 (1) ~~Before the effective date of this title county implementation~~
29 ~~date as described in subdivision (a) of Section 12300.7 of the~~
30 ~~Welfare and Institutions Code, by a county, a local public authority,~~
31 ~~or a nonprofit consortium~~ *an entity* established pursuant to Section
32 12301.6 of the Welfare and Institutions Code, as the representative
33 of ~~its employees~~ *individual providers in its jurisdiction*.

34 (2) ~~On or after the effective date of this title county~~
35 ~~implementation date as described in subdivision (a) of Section~~
36 ~~12300.7 of the Welfare and Institutions Code, by the Statewide~~
37 ~~Authority, as the representative of individual providers subject to~~
38 *this title*.

1 (k) “Statewide Authority” means the California In-Home
2 Supportive Services Authority established pursuant to Section
3 6531.5.

4 *SEC. 6. Section 110011 of the Government Code is amended*
5 *to read:*

6 110011. (a) Except as otherwise expressly provided in this
7 title, the enactment of this title shall not be a cause for the employer
8 or any predecessor agency to modify or eliminate any existing
9 memorandum of agreement or understanding, or to modify existing
10 wages, benefits, or other terms and conditions of employment.
11 Except to the extent set forth in this title, the enactment of this title
12 shall not prevent the modification of existing wages, benefits, or
13 terms and conditions of employment through the meet and confer
14 in good faith process or, in those situations in which the employees
15 are not represented by a recognized employee organization, through
16 appropriate procedures.

17 (b) On the county implementation date, subject to Section
18 12306.15 of the Welfare and Institutions Code, the Statewide
19 Authority shall assume the predecessor agency’s rights and
20 obligations under any memorandum of understanding or agreement
21 between the predecessor agency and a recognized employee
22 organization that is in effect on the county implementation date
23 for the duration thereof. Absent mutual consent to reopen, the
24 terms of any transferred memorandum of understanding or
25 agreement shall continue until the memorandum of understanding
26 or agreement has expired. If a memorandum of understanding or
27 agreement between a recognized employee organization and a
28 predecessor agency has expired and has not been replaced by a
29 successor memorandum of understanding or agreement as of the
30 county implementation date, the Statewide Authority shall assume
31 the obligation to meet and confer in good faith with the recognized
32 employee organization.

33 (c) Notwithstanding any other provision of law, except to the
34 extent set forth in this chapter and as limited by Section 110023,
35 the terms and conditions of any memorandum of understanding
36 or agreement between a predecessor agency and a recognized
37 employee organization in effect on the county implementation date
38 shall not be reduced, except by mutual agreement between the
39 recognized employee organization and the Statewide Authority.

(d) Nothing in this title shall be construed to relieve any predecessor agency of its obligation to meet and confer in good faith with a recognized employee organization pursuant to the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1) until the county implementation date. Nothing in this title shall ~~require~~ *permit* the predecessor agency to meet and confer after the Statewide Authority assumes the predecessor agency's rights and obligations on the county implementation date.

(e) With the exception of all economic terms covered by Section 12306.15 of the Welfare and Institutions Code and notwithstanding any other provision of law, beginning July 1, 2012, and ending on the county implementation date as set forth in subdivision (a) of Section 12300.7 of the Welfare and Institutions Code, any alterations or modifications to either current or expired memoranda of understanding that were in effect on July 1, 2012, and any newly negotiated memoranda of understanding or agreements reached after July 1, 2012, shall be submitted for review to the State Department of Social Services, *hereafter referred to as the department*. This review requirement *shall not begin until a county commences transition pursuant to subdivision (g) of Section 14132.275 of the Welfare and Institutions Code*, and shall be performed by the department until the Statewide Authority becomes operational, after which date the Statewide Authority shall continue to perform this review requirement. If, upon review, but not later than 180 days after the county commences transition pursuant to ~~paragraph (1) of~~ subdivision (g) of Section 14132.275 of the Welfare and Institutions Code, the department or Statewide Authority reasonably determines that there are one or more newly negotiated or amended noneconomic terms in the memorandum of understanding or agreement to which it objects for a bona fide business-related reason, the department or Statewide Authority shall provide written notice to the signatory recognized employee organization of each objection and the reason for it. Upon demand from the recognized employee organization, the department, or the Statewide Authority, ~~the~~ *those* parties shall meet and confer regarding the objection and endeavor to reach agreement prior to the county implementation date. *If an agreement is reached, it shall not become effective prior to the county implementation date.* If an agreement is not reached by the county implementation date,

1 the objectionable language is deemed inoperable *as of the county*
2 *implementation date*. All terms to which no objection is made shall
3 be deemed accepted by the Statewide Authority. If the Statewide
4 Authority *or the department* fails to provide the 180 days' notice
5 of objection, it shall be deemed waived.

6 *SEC. 7. Section 110012 of the Government Code is amended*
7 *to read:*

8 110012. If the Statewide Authority and the recognized
9 employee organization negotiate changes to locally administered
10 health benefits for individual providers, the Statewide Authority
11 shall give 90 days' notice to the county *and an entity established*
12 *pursuant to Section 12301.6 of the Welfare and Institutions Code*
13 *prior to implementation* of the agreed-upon changes.

14 *SEC. 8. Section 110013 of the Government Code is amended*
15 *to read:*

16 110013. The Legislature hereby finds and declares that
17 collective bargaining for individual providers under this title
18 constitutes a matter of statewide concern. Therefore, this title is
19 applicable to all counties, notwithstanding charter provisions to
20 ~~the contrary~~ *contrary*, as set forth in Section 110005.

21 *SEC. 9. Section 110019 of the Government Code is amended*
22 *to read:*

23 110019. (a) Notwithstanding Section 110002, any other
24 provision of this title, or any other law, rule, or regulation, an
25 agency shop agreement may be negotiated between the employer
26 and a recognized public employee organization that has been
27 recognized as the exclusive or majority bargaining agent, in
28 accordance with this title. As used in this title, "agency shop"
29 means an arrangement that requires an employee, as a condition
30 of continued employment, either to join the recognized employee
31 organization or to pay the organization a service fee in an amount
32 not to exceed the standard initiation fee, periodic dues, and general
33 assessments of the organization, to be determined by the
34 organization in accordance with applicable law.

35 (b) In addition to the procedure prescribed in subdivision (a),
36 an agency shop arrangement between the Statewide Authority and
37 a recognized employee organization that has been recognized as
38 the exclusive or majority bargaining agent shall be placed in effect,
39 without a negotiated agreement, upon (1) a signed petition of 30
40 percent of the employees in the applicable bargaining unit

1 requesting an agency shop agreement and an election to implement
2 an agency fee arrangement, and (2) the approval of a majority of
3 employees who cast ballots and vote in a secret ballot election in
4 favor of the agency shop agreement. The petition may be filed
5 only after the recognized employee organization has requested the
6 ~~employer~~ *Statewide Authority* to negotiate on an agency shop
7 arrangement and, beginning seven working days after the ~~employer~~
8 *Statewide Authority* received this request, the two parties have had
9 30 calendar days to attempt good faith negotiations in an effort to
10 reach agreement. An election that shall not be held more frequently
11 than once a year shall be conducted by the State Mediation and
12 Conciliation Service ~~with the Department of Industrial Relations~~
13 in the event that the ~~employer~~ *Statewide Authority* and the
14 recognized employee organization cannot agree within 10 days
15 from the filing of the petition to select jointly a neutral person or
16 entity to conduct the election. In the event of an agency fee
17 arrangement outside of an agreement that is in effect, the
18 recognized employee organization shall indemnify and hold the
19 ~~employer~~ *Statewide Authority* harmless against any liability arising
20 from a claim, demand, or other action relating to the ~~employer's~~
21 *Statewide Authority's* compliance with the agency fee obligation.

22 (c) An individual provider who is a member of a bona fide
23 religion, body, or sect that has historically held conscientious
24 objections to joining or financially supporting public employee
25 organizations shall not be required to join or financially support a
26 public employee organization as a condition of employment. The
27 employee may be required, in lieu of periodic dues, initiation fees,
28 or agency shop fees, to pay sums equal to the dues, initiation fees,
29 or agency shop fees to a nonreligious, nonlabor charitable fund
30 exempt from taxation under Section 501(c)(3) of the Internal
31 Revenue Code, chosen by the employee from a list of at least three
32 of these funds, designated in a memorandum of understanding
33 between the employer and the recognized employee organization,
34 or if the memorandum of understanding fails to designate the funds,
35 then to a fund of that type chosen by the employee. Proof of the
36 payments shall be made on a monthly basis to the employer as a
37 condition of continued exemption from the requirement of financial
38 support to the public employee organization.

39 (d) An agency shop provision in a memorandum of
40 understanding that is in effect may be rescinded by a majority vote

1 of all the employees in the unit covered by the memorandum of
2 understanding, provided that: (1) a request for that type of vote is
3 supported by a petition containing the signatures of at least 30
4 percent of the employees in the unit, (2) the vote is by secret ballot,
5 and (3) the vote may be taken at any time during the term of the
6 memorandum of understanding, but in no event shall there be more
7 than one vote taken during that term.

8 (e) A recognized employee organization that has agreed to an
9 agency shop provision or is a party to an agency shop arrangement
10 shall keep an adequate itemized record of its financial transactions
11 and shall make available annually, to the employer with which the
12 agency shop provision was negotiated, and to the employees who
13 are members of the organization, within 60 days after the end of
14 its fiscal year, a detailed written financial report thereof in the form
15 of a balance sheet and an operating statement, certified as to
16 accuracy by its president and treasurer or corresponding principal
17 officer, or by a certified public accountant. An employee
18 organization required to file financial reports under the federal
19 Labor-Management Reporting and Disclosure Act of 1959 (29
20 U.S.C. Sec. 401 et seq.) covering employees governed by this title,
21 or required to file financial reports under Section 3546.5, may
22 satisfy the financial reporting requirement of this section by
23 providing the employer with a copy of the financial reports.

24 *SEC. 10. Section 110022 of the Government Code is amended*
25 *to read:*

26 110022. Recognized employee organizations shall have the
27 right to represent their members in their employment relations
28 with the employer. Employee organizations may establish
29 reasonable restrictions regarding who may join and may make
30 reasonable provisions for the dismissal of individuals from
31 membership. Nothing in this section shall prohibit an employee
32 from appearing on his or her own behalf in his or her employment
33 relations with the employer. *Statewide Authority.*

34 *SEC. 11. Section 110023 of the Government Code is amended*
35 *to read:*

36 110023. (a) The scope of representation shall include all
37 matters relating to wages, benefits, and other terms and conditions
38 of employment. The scope of representation shall exclude the
39 following *functions performed by, or on behalf of, a county:*

1 ~~(a) Functions performed by, or on behalf of, a county, which~~
2 ~~shall include all of the following:~~

- 3 (1) Determining an applicant's eligibility for IHSS benefits.
4 (2) Assessing, approving, and authorizing an IHSS recipient's
5 initial and continuing need for services.
6 (3) Enrolling providers and conducting provider orientation.
7 (4) Conducting criminal background checks on all potential
8 providers.
9 (5) Providing assistance to IHSS recipients in finding eligible
10 providers through the establishment of a provider registry, as well
11 as providing orientation to recipients.
12 (6) Pursuing overpayment recovery recollection.
13 (7) Performing quality assurance activities.
14 (8) *Providing assistance to IHSS recipients through the*
15 *establishment of emergency backup services.*

16 ~~(8)~~
17 (9) Performing any other function or responsibility required
18 pursuant to statute or regulation to be performed by the county.

19 (b) *The scope of representation shall also exclude the IHSS*
20 *recipient's right to hire, fire, and supervise the individual provider;*
21 ~~which is reserved to the in-home supportive services recipient.~~

22 *SEC. 12. Section 110024 of the Government Code is amended*
23 *to read:*

24 110024. (a) Except in cases of emergency as provided in this
25 section, the Statewide Authority shall give reasonable written
26 notice to each recognized employee organization affected by any
27 rule, practice, or policy directly relating to matters within the scope
28 of representation proposed to be adopted by the ~~employer~~ *Statewide*
29 *Authority* and shall give each recognized employee organization
30 the opportunity to meet with the ~~employer~~ *Statewide Authority*.

31 (b) In cases of emergency when the Statewide Authority
32 determines that any rule, policy, or procedure must be adopted
33 immediately without prior notice or meeting with a recognized
34 employee organization, the ~~employer~~ *Statewide Authority* shall
35 provide notice and an opportunity to meet at the earliest practicable
36 time following the adoption of the rule, policy, or procedure.

37 *SEC. 13. Section 110029 of the Government Code is amended*
38 *to read:*

39 110029. (a) If, after a reasonable period of time, representatives
40 of the ~~employer~~ *Statewide Authority* and the recognized employee

1 organization fail to reach agreement, the dispute shall be referred
2 to mediation before a mediator mutually agreeable to the parties.
3 If the parties are unable to agree upon the mediator, either party
4 may request the board to appoint a mediator in accordance with
5 rules adopted by the board.

6 (b) The costs of mediation shall be divided one-half to the
7 ~~employer~~ *Statewide Authority* and one-half to the recognized
8 employee organization or recognized employee organizations.

9 *SEC. 14. Section 110031 of the Government Code is amended*
10 *to read:*

11 110031. (a) If the dispute is not settled within 30 days after
12 the appointment of the factfinding panel, or, upon agreement by
13 both parties within a longer period, the panel shall make findings
14 of fact and recommend terms of settlement, which shall be advisory
15 only. The factfinders shall submit, in writing, any findings of fact
16 and recommended terms of settlement to the parties before they
17 are made available to the public. The ~~employer~~ *Statewide Authority*
18 shall make these findings and recommendations publicly available
19 within 10 days after their receipt.

20 (b) The costs for the services of the panel chairperson, whether
21 selected by the board or agreed upon by the parties, shall be equally
22 divided between the parties, and shall include per diem fees, if
23 any, and actual and necessary travel and subsistence expenses.
24 The per diem fees shall not exceed the per diem fees stated on the
25 chairperson's résumé on file with the board. The chairperson's bill
26 showing the amount payable by the parties shall accompany his
27 or her final report to the parties and the board. The chairperson
28 may submit interim bills to the parties in the course of the
29 proceedings, and copies of the interim bills shall also be sent to
30 the board. The parties shall make payment directly to the
31 chairperson.

32 (c) Any other mutually incurred costs shall be borne equally by
33 the ~~public agency~~ *Statewide Authority* and the employee
34 organization. Any separately incurred costs for the panel member
35 selected by each party shall be borne by that party.

36 (d) Nothing in this chapter shall be construed to prohibit the
37 mediator appointed pursuant to Section 110029, upon mutual
38 agreement of the parties, from continuing mediation efforts on the
39 basis of the findings of fact and recommended terms of settlement
40 made pursuant to Section 110031.

1 *SEC. 15. Section 110034 of the Government Code is amended*
2 *to read:*

3 110034. The Statewide Authority shall not do any of the
4 following:

5 (a) Impose or threaten to impose reprisals on ~~employees,~~
6 ~~individual providers,~~ to discriminate or threaten to discriminate
7 ~~against employees, individual providers,~~ or otherwise to interfere
8 with, restrain, or coerce ~~employees individual providers~~ because
9 of their exercise of rights guaranteed by this title.

10 (b) Deny to employee organizations the rights guaranteed to
11 them by this title.

12 (c) Refuse or fail to meet and negotiate in good faith with a
13 recognized employee organization. For purposes of this
14 subdivision, knowingly providing a recognized employee
15 organization with inaccurate information regarding the financial
16 resources of the ~~employer~~ *Statewide Authority*, whether or not in
17 response to a request for information, constitutes a refusal or failure
18 to meet and negotiate in good faith.

19 (d) Dominate or interfere with the formation or administration
20 of any employee organization, contribute financial or other support
21 to any employee organization, or in any way encourage ~~employees~~
22 ~~individual providers~~ to join any organization in preference to
23 another.

24 (e) Refuse to participate in good faith in any applicable impasse
25 procedure.

26 *SEC. 16. Section 110035 of the Government Code is amended*
27 *to read:*

28 110035. (a) The Statewide Authority may adopt reasonable
29 rules and regulations for all of the following:

30 (1) Registering employee organizations.

31 (2) Determining the status of organizations and associations as
32 employee organizations or bona fide associations.

33 (3) Identifying the officers and representatives who officially
34 represent employee organizations and bona fide associations.

35 (4) Any other matters that are necessary to carry out the purposes
36 of this title.

37 (b) The board shall establish procedures whereby recognition
38 of employee organizations formally recognized as majority
39 representatives pursuant to a vote of the employees may be revoked

1 by a majority vote of the employees only after a period of not less
2 than 12 months following the date of recognition.

3 (c) ~~The employer~~ *Statewide Authority* shall not unreasonably
4 withhold recognition of employee organizations.

5 (d) Employees and employee organizations may challenge a
6 rule or regulation of the ~~employer~~ *Statewide Authority* as a violation
7 of this title. This subdivision shall not be construed to restrict or
8 expand the board's jurisdiction or authority as set forth in
9 subdivisions (a) to (c), inclusive, of Section 3541.3.

10 *SEC. 17. Section 1502 of the Health and Safety Code is*
11 *amended to read:*

12 1502. As used in this chapter:

13 (a) "Community care facility" means any facility, place, or
14 building that is maintained and operated to provide nonmedical
15 residential care, day treatment, adult day care, or foster family
16 agency services for children, adults, or children and adults,
17 including, but not limited to, the physically handicapped, mentally
18 impaired, incompetent persons, and abused or neglected children,
19 and includes the following:

20 (1) "Residential facility" means any family home, group care
21 facility, or similar facility determined by the director, for 24-hour
22 nonmedical care of persons in need of personal services,
23 supervision, or assistance essential for sustaining the activities of
24 daily living or for the protection of the individual.

25 (2) "Adult day program" means any community-based facility
26 or program that provides care to persons 18 years of age or older
27 in need of personal services, supervision, or assistance essential
28 for sustaining the activities of daily living or for the protection of
29 these individuals on less than a 24-hour basis.

30 (3) "Therapeutic day services facility" means any facility that
31 provides nonmedical care, counseling, educational or vocational
32 support, or social rehabilitation services on less than a 24-hour
33 basis to persons under 18 years of age who would otherwise be
34 placed in foster care or who are returning to families from foster
35 care. Program standards for these facilities shall be developed by
36 the department, pursuant to Section 1530, in consultation with
37 therapeutic day services and foster care providers.

38 (4) "Foster family agency" means any organization engaged in
39 the recruiting, certifying, and training of, and providing
40 professional support to, foster parents, or in finding homes or other

1 places for placement of children for temporary or permanent care
2 who require that level of care as an alternative to a group home.
3 Private foster family agencies shall be organized and operated on
4 a nonprofit basis.

5 (5) “Foster family home” means any residential facility
6 providing 24-hour care for six or fewer foster children that is
7 owned, leased, or rented and is the residence of the foster parent
8 or parents, including their family, in whose care the foster children
9 have been placed. The placement may be by a public or private
10 child placement agency or by a court order, or by voluntary
11 placement by a parent, parents, or guardian. It also means a foster
12 family home described in Section 1505.2.

13 (6) “Small family home” means any residential facility, in the
14 licensee’s family residence, that provides 24-hour care for six or
15 fewer foster children who have mental disorders or developmental
16 or physical disabilities and who require special care and supervision
17 as a result of their disabilities. A small family home may accept
18 children with special health care needs, pursuant to subdivision
19 (a) of Section 17710 of the Welfare and Institutions Code. In
20 addition to placing children with special health care needs, the
21 department may approve placement of children without special
22 health care needs, up to the licensed capacity.

23 (7) “Social rehabilitation facility” means any residential facility
24 that provides social rehabilitation services for no longer than 18
25 months in a group setting to adults recovering from mental illness
26 who temporarily need assistance, guidance, or counseling. Program
27 components shall be subject to program standards pursuant to
28 Article 1 (commencing with Section 5670) of Chapter 2.5 of Part
29 2 of Division 5 of the Welfare and Institutions Code.

30 (8) “Community treatment facility” means any residential
31 facility that provides mental health treatment services to children
32 in a group setting and that has the capacity to provide secure
33 containment. Program components shall be subject to program
34 standards developed and enforced by the State Department of
35 ~~Mental Health~~ *Health Care Services* pursuant to Section 4094 of
36 the Welfare and Institutions Code.

37 Nothing in this section shall be construed to prohibit or
38 discourage placement of persons who have mental or physical
39 disabilities into any category of community care facility that meets

1 the needs of the individual placed, if the placement is consistent
2 with the licensing regulations of the department.

3 (9) “Full-service adoption agency” means any licensed entity
4 engaged in the business of providing adoption services, that does
5 all of the following:

6 (A) Assumes care, custody, and control of a child through
7 relinquishment of the child to the agency or involuntary termination
8 of parental rights to the child.

9 (B) Assesses the birth parents, prospective adoptive parents, or
10 child.

11 (C) Places children for adoption.

12 (D) Supervises adoptive placements.

13 Private full-service adoption agencies shall be organized and
14 operated on a nonprofit basis. As a condition of licensure to provide
15 intercountry adoption services, a full-service adoption agency shall
16 be accredited and in good standing according to Part 96 of Title
17 22 of the Code of Federal Regulations, or supervised by an
18 accredited primary provider, or acting as an exempted provider,
19 in compliance with Subpart F (commencing with Section 96.29)
20 of Part 96 of Title 22 of the Code of Federal Regulations.

21 (10) “Noncustodial adoption agency” means any licensed entity
22 engaged in the business of providing adoption services, that does
23 all of the following:

24 (A) Assesses the prospective adoptive parents.

25 (B) Cooperatively matches children freed for adoption, who are
26 under the care, custody, and control of a licensed adoption agency,
27 for adoption, with assessed and approved adoptive applicants.

28 (C) Cooperatively supervises adoptive placements with a
29 full-service adoptive agency, but does not disrupt a placement or
30 remove a child from a placement.

31 Private noncustodial adoption agencies shall be organized and
32 operated on a nonprofit basis. As a condition of licensure to provide
33 intercountry adoption services, a noncustodial adoption agency
34 shall be accredited and in good standing according to Part 96 of
35 Title 22 of the Code of Federal Regulations, or supervised by an
36 accredited primary provider, or acting as an exempted provider,
37 in compliance with Subpart F (commencing with Section 96.29)
38 of Part 96 of Title 22 of the Code of Federal Regulations.

39 (11) “Transitional shelter care facility” means any group care
40 facility that provides for 24-hour nonmedical care of persons in

1 need of personal services, supervision, or assistance essential for
2 sustaining the activities of daily living or for the protection of the
3 individual. Program components shall be subject to program
4 standards developed by the State Department of Social Services
5 pursuant to Section 1502.3.

6 (12) “Transitional housing placement provider” means an
7 organization licensed by the department pursuant to Section
8 1559.110 and Section 16522.1 of the Welfare and Institutions Code
9 to provide transitional housing to foster children at least 16 years
10 of age; and not more than 18 years of age, and nonminor
11 dependents, as defined in subdivision (v) of Section 11400 of the
12 Welfare and Institutions Code, to promote their transition to
13 adulthood. A transitional housing placement provider shall be
14 privately operated and organized on a nonprofit basis.

15 (b) “Department” or “state department” means the State
16 Department of Social Services.

17 (c) “Director” means the Director of Social Services.

18 *SEC. 18. Section 1531.15 of the Health and Safety Code is*
19 *amended to read:*

20 1531.15. (a) A licensee of an adult residential facility or group
21 home for no more than 15 residents, that is eligible for and serving
22 clients eligible for federal Medicaid funding and utilizing delayed
23 egress devices pursuant to Section 1531.1, may install and utilize
24 secured perimeters in accordance with the provisions of this
25 section.

26 (b) As used in this section, “secured perimeters” means fences
27 that meet the requirements prescribed by this section.

28 (c) Only individuals meeting all of the following conditions
29 may be admitted to or reside in a facility described in subdivision
30 (a) utilizing secured perimeters:

31 (1) The person shall have a developmental disability as defined
32 in Section 4512 of the Welfare and Institutions Code.

33 (2) The person shall be receiving services and case management
34 from a regional center under the Lanterman Developmental
35 Disabilities Services Act (Division 4.5 (commencing with Section
36 4500) of the Welfare and Institutions Code).

37 (3) (A) The person shall be 14 years of age or older, except as
38 specified in subparagraph (B).

39 (B) Notwithstanding subparagraph (A), a child who is at least
40 10 years of age and less than 14 years of age may be placed in a

1 licensed group home described in subdivision (a) using secured
2 perimeters only if both of the following occur:

3 (i) A comprehensive assessment is conducted and an individual
4 program plan meeting is convened to determine the services and
5 supports needed for the child to receive services in a less restrictive,
6 unlocked residential setting in California, and the regional center
7 requests assistance from the State Department of Developmental
8 Services' statewide specialized resource service to identify options
9 to serve the child in a less restrictive, unlocked residential setting
10 in California.

11 (ii) The regional center requests placement of the child in a
12 licensed group home described in subdivision (a) using secured
13 perimeters on the basis that the placement is necessary to prevent
14 out-of-state placement or placement in a more restrictive, locked
15 residential setting and the State Department of Developmental
16 Services approves the request.

17 (4) The person is not a foster child under the jurisdiction of the
18 juvenile court pursuant to Section 300, ~~301~~ 450, 601, or 602 of
19 the Welfare and Institutions Code.

20 (5) An interdisciplinary team, through the individual program
21 plan (IPP) process pursuant to Section 4646.5 of the Welfare and
22 Institutions Code, shall have determined the person lacks hazard
23 awareness or impulse control and, for his or her safety and security,
24 requires the level of supervision afforded by a facility equipped
25 with secured perimeters, and, but for this placement, the person
26 would be at risk of admission to, or would have no option but to
27 remain in, a more restrictive placement. The individual program
28 planning team shall determine the continued appropriateness of
29 the placement at least annually.

30 (d) The licensee shall be subject to all applicable fire and
31 building codes, regulations, and standards, and shall receive
32 approval by the county or city fire department, the local fire
33 prevention district, or the State Fire Marshal for the installed
34 secured perimeters.

35 (e) The licensee shall provide staff training regarding the use
36 and operation of the secured perimeters, protection of residents'
37 personal rights, lack of hazard awareness and impulse control
38 behavior, and emergency evacuation procedures.

39 (f) The licensee shall revise its facility plan of operation. These
40 revisions shall be first be approved by the State Department of

1 Developmental Services. The plan of operation shall not be
2 approved by the State Department of Social Services unless the
3 licensee provides certification that the plan was approved by the
4 State Department of Developmental Services. The plan shall
5 include, but not be limited to, all of the following:

6 (1) A description of how the facility is to be equipped with
7 secured perimeters that are consistent with regulations adopted by
8 the State Fire Marshal pursuant to Section 13143.6.

9 (2) A description of how the facility will provide training for
10 staff.

11 (3) A description of how the facility will ensure the protection
12 of the residents' personal rights consistent with Sections 4502,
13 4503, and 4504 of the Welfare and Institutions Code, and any
14 applicable personal rights provided in Title 22 of the California
15 Code of Regulations.

16 (4) A description of how the facility will manage residents' lack
17 of hazard awareness and impulse control behavior.

18 (5) A description of the facility's emergency evacuation
19 procedures.

20 (g) Secured perimeters shall not substitute for adequate staff.

21 (h) Emergency fire and earthquake drills shall be conducted on
22 each shift in accordance with existing licensing requirements, and
23 shall include all facility staff providing resident care and
24 supervision on each shift.

25 (i) Interior and exterior space shall be available on the facility
26 premises to permit clients to move freely and safely.

27 (j) For the purpose of using secured perimeters, the licensee
28 shall not be required to obtain a waiver or exception to a regulation
29 that would otherwise prohibit the locking of a perimeter fence or
30 gate.

31 (k) This section shall become operative only upon the ~~filing~~
32 *publication in Title 17 of the California Code of Regulations* of
33 emergency regulations *filed* by the State Department of
34 Developmental Services. These regulations shall be developed
35 with stakeholders, including the State Department of Social
36 Services, consumer advocates, and regional centers. The regulations
37 shall establish program standards for homes that include secured
38 perimeters, including requirements and timelines for the completion
39 and updating of a comprehensive assessment of each consumer's
40 needs, including the identification through the individual program

1 plan process of the services and supports needed to transition the
2 consumer to a less restrictive living arrangement, and a timeline
3 for identifying or developing those services and supports. The
4 regulations shall establish a statewide limit on the total number of
5 beds in homes with secured perimeters. The adoption of these
6 regulations shall be deemed to be an emergency and necessary for
7 the immediate preservation of the public peace, health and safety,
8 or general welfare.

9 *SEC. 19. Section 4094.7 of the Welfare and Institutions Code*
10 *is amended to read:*

11 4094.7. (a) A community treatment facility may have both
12 secure and nonsecure beds. However, the State Department of
13 Health Care Services shall limit the total number of beds in
14 community treatment facilities to not more than 400 statewide.
15 The State Department of Health Care Services shall certify
16 community treatment facilities in such a manner as to ensure an
17 adequate dispersal of these facilities within the state. The State
18 Department of Health Care Services shall ensure that there is at
19 least one facility in each of the State Department of Social
20 Services' ~~four~~ *five* regional licensing ~~divisions~~ *offices*.

21 (b) The State Department of Health Care Services shall notify
22 the State Department of Social Services when a facility has been
23 certified and has met the program standards pursuant to Section
24 4094. The State Department of Social Services shall license a
25 community treatment facility for a specified number of secure beds
26 and a specified number of nonsecure beds. The number of secure
27 and nonsecure beds in a facility shall be modified only with the
28 approval of both the State Department of Social Services and the
29 State Department of Health Care Services.

30 (c) The State Department of Health Care Services shall develop,
31 with the advice of the State Department of Social Services, county
32 representatives, providers, and interested parties, the criteria to be
33 used to determine which programs among applicant providers shall
34 be licensed. The State Department of Health Care Services shall
35 determine which agencies best meet the criteria, certify them in
36 accordance with Section 4094, and refer them to the State
37 Department of Social Services for licensure.

38 (d) Any community treatment facility proposing to serve
39 seriously emotionally disturbed foster children shall be
40 incorporated as a nonprofit organization.

1 SEC. 20. *Section 5405 of the Welfare and Institutions Code is*
2 *amended to read:*

3 5405. (a) This section shall apply to each facility licensed by
4 the State Department of Social Services, or its delegated agent, on
5 or after January 1, 2003. For purposes of this section, “facility”
6 means psychiatric health facilities, as defined in Section 1250.2
7 of the Health and Safety Code, licensed pursuant to Chapter 9
8 (commencing with Section 77001) of Division 5 of Title 22 of the
9 California Code of Regulations and mental health rehabilitation
10 centers licensed pursuant to Chapter 3.5 (commencing with Section
11 781.00) of Division 1 of Title 9 of the California Code of
12 Regulations.

13 (b) (1) (A) Prior to the initial licensure or first renewal of a
14 license on or after January 1, 2003, of any person to operate or
15 manage a facility specified in subdivision (a), ~~the department~~
16 *applicant or licensee* shall submit fingerprint images and related
17 information pertaining to the applicant or licensee to the
18 Department of Justice for purposes of a criminal record check, as
19 specified in paragraph (2), at the expense of the applicant or
20 licensee. The Department of Justice shall provide the results of
21 the criminal record check to the department. The department may
22 take into consideration information obtained from or provided by
23 other government agencies. The department shall determine
24 whether the applicant or licensee has ever been convicted of a
25 crime specified in subdivision (c). ~~The department~~ *applicant or*
26 *licensee* shall submit fingerprint images and related information
27 each time the position of administrator, manager, program director,
28 or fiscal officer of a facility is filled and prior to actual employment
29 for initial licensure or an individual who is initially hired on or
30 after January 1, 2003. For purposes of this subdivision, “applicant”
31 and “licensee” include the administrator, manager, program
32 director, or fiscal officer of a facility.

33 (B) Commencing July 1, 2012, upon the employment of, or
34 contract with or for, any direct care staff ~~the State Department of~~
35 ~~Social Services,~~ *the direct care staff person or licensee* shall submit
36 fingerprint images and related information pertaining to the direct
37 care staff person to the Department of Justice for purposes of a
38 criminal record check, as specified in paragraph (2), at the expense
39 of the direct care staff person or licensee. The Department of
40 Justice shall provide the results of the criminal record check to the

1 department. The department shall determine whether the direct
2 care staff person has ever been convicted of a crime specified in
3 subdivision (c). The department shall notify the licensee of these
4 results. No direct client contact by the trainee or newly hired staff,
5 or by any direct care contractor shall occur prior to clearance by
6 the department unless the trainee, newly hired employee,
7 contractor, or employee of the contractor is constantly supervised.

8 (C) Commencing July 1, 2012, any contract for services
9 provided directly to patients or residents shall contain provisions
10 to ensure that the direct services contractor submits to the ~~State~~
11 ~~Department of Social Services~~ *Department of Justice* fingerprint
12 images and related information pertaining to the direct services
13 contractor for submission to the ~~Department of Justice~~ *State*
14 *Department of Social Services* for purposes of a criminal record
15 check, as specified in paragraph (2), at the expense of the direct
16 services contractor or licensee. The Department of Justice shall
17 provide the results of the criminal record check to the department.
18 The department shall determine whether the direct services
19 contractor has ever been convicted of a crime specified in
20 subdivision (c). The department shall notify the licensee of these
21 results.

22 (2) If the applicant, licensee, direct care staff person, or direct
23 services contractor specified in paragraph (1) has resided in
24 California for at least the previous seven years, the ~~State~~
25 ~~Department of Social Services~~ *applicant, licensee, direct care staff*
26 *person, or direct services contractor* shall only ~~require the~~
27 ~~submission of~~ *submit* one set of fingerprint images and related
28 information *to the Department of Justice*. The Department of
29 Justice shall charge a fee sufficient to cover the reasonable cost of
30 processing the fingerprint submission. Fingerprints and related
31 information submitted pursuant to this subdivision include
32 fingerprint images captured and transmitted electronically. When
33 requested, the Department of Justice shall forward one set of
34 fingerprint images to the Federal Bureau of Investigation for the
35 purpose of obtaining any record of previous convictions or arrests
36 pending adjudication of the applicant, licensee, direct care staff
37 person, or direct services contractor. The results of a criminal
38 record check provided by the Department of Justice shall contain
39 every conviction rendered against an applicant, licensee, direct
40 care staff person, or direct services contractor, and every offense

1 for which the applicant, licensee, direct care staff person, or direct
2 services contractor is presently awaiting trial, whether the person
3 is incarcerated or has been released on bail or on his or her own
4 recognizance pending trial. The department shall request
5 subsequent arrest notification from the Department of Justice
6 pursuant to Section 11105.2 of the Penal Code.

7 (3) An applicant and any other person specified in this
8 subdivision, as part of the background clearance process, shall
9 provide information as to whether or not the person has any prior
10 criminal convictions, has had any arrests within the past 12-month
11 period, or has any active arrests, and shall certify that, to the best
12 of his or her knowledge, the information provided is true. This
13 requirement is not intended to duplicate existing requirements for
14 individuals who are required to submit fingerprint images as part
15 of a criminal background clearance process. Every applicant shall
16 provide information on any prior administrative action taken
17 against him or her by any federal, state, or local government agency
18 and shall certify that, to the best of his or her knowledge, the
19 information provided is true. An applicant or other person required
20 to provide information pursuant to this section that knowingly or
21 willfully makes false statements, representations, or omissions
22 may be subject to administrative action, including, but not limited
23 to, denial of his or her application or exemption or revocation of
24 any exemption previously granted.

25 (c) (1) The State Department of Social Services shall deny any
26 application for any license, suspend or revoke any existing license,
27 and disapprove or revoke any employment or contract for direct
28 services, if the applicant, licensee, employee, or direct services
29 contractor has been convicted of, or incarcerated for, a felony
30 defined in subdivision (c) of Section 667.5 of, or subdivision (c)
31 of Section 1192.7 of, the Penal Code, within the preceding 10
32 years.

33 (2) The application for licensure or renewal of any license shall
34 be denied, and any employment or contract to provide direct
35 services shall be disapproved or revoked, if the criminal record of
36 the person includes a conviction in another jurisdiction for an
37 offense that, if committed or attempted in this state, would have
38 been punishable as one or more of the offenses referred to in
39 paragraph (1).

(d) (1) The State Department of Social Services may approve an application for, or renewal of, a license, or continue any employment or contract for direct services, if the person has been convicted of a misdemeanor offense that is not a crime upon the person of another, the nature of which has no bearing upon the duties for which the person will perform as a licensee, direct care staff person, or direct services contractor. In determining whether to approve the application, employment, or contract for direct services, the department shall take into consideration the factors enumerated in paragraph (2).

(2) Notwithstanding subdivision (c), if the criminal record of a person indicates any conviction other than a minor traffic violation, the State Department of Social Services may deny the application for license or renewal, and may disapprove or revoke any employment or contract for direct services. In determining whether or not to deny the application for licensure or renewal, or to disapprove or revoke any employment or contract for direct services, the department shall take into consideration the following factors:

(A) The nature and seriousness of the offense under consideration and its relationship to the person's employment, duties, and responsibilities.

(B) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.

(C) The time that has elapsed since the commission of the conduct or offense and the number of offenses.

(D) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanction lawfully imposed against the person.

(E) Any rehabilitation evidence, including character references, submitted by the person.

(F) Employment history and current employer recommendations.

(G) Circumstances surrounding the commission of the offense that would demonstrate the unlikelihood of repetition.

(H) The granting by the Governor of a full and unconditional pardon.

(I) A certificate of rehabilitation from a superior court.

(e) Denial, suspension, or revocation of a license, or disapproval or revocation of any employment or contract for direct services

1 specified in subdivision (c) and paragraph (2) of subdivision (d)
2 are not subject to appeal, except as provided in subdivision (f).

3 (f) After a review of the record, the director may grant an
4 exemption from denial, suspension, or revocation of any license,
5 or disapproval of any employment or contract for direct services,
6 if the crime for which the person was convicted was a property
7 crime that did not involve injury to any person and the director
8 has substantial and convincing evidence to support a reasonable
9 belief that the person is of such good character as to justify issuance
10 or renewal of the license or approval of the employment or contract.

11 (g) A plea or verdict of guilty, or a conviction following a plea
12 of nolo contendere shall be deemed a conviction within the
13 meaning of this section. The State Department of Social Services
14 may deny any application, or deny, suspend, or revoke a license,
15 or disapprove or revoke any employment or contract for direct
16 services based on a conviction specified in subdivision (c) when
17 the judgment of conviction is entered or when an order granting
18 probation is made suspending the imposition of sentence.

19 (h) (1) For purposes of this section, “direct care staff” means
20 any person who is an employee, contractor, or volunteer who has
21 contact with other patients or residents in the provision of services.
22 Administrative and licensed personnel shall be considered direct
23 care staff when directly providing program services to participants.

24 (2) An additional background check shall not be required
25 pursuant to this section if the direct care staff or licensee has
26 received a prior criminal history background check while working
27 in a mental health rehabilitation center or psychiatric health facility
28 licensed by the State Department of Social Services, and provided
29 the department has maintained continuous subsequent arrest
30 notification on the individual from the Department of Justice since
31 the prior criminal background check was initiated.

32 (3) When an application is denied on the basis of a conviction
33 pursuant to this section, the State Department of Social Services
34 shall provide the individual whose application was denied with
35 notice, in writing, of the specific grounds for the proposed denial.

36 *SEC. 21. Section 6500 of the Welfare and Institutions Code is*
37 *amended to read:*

38 6500. (a) For purposes of this article, the following definitions
39 shall apply:

(1) “Dangerousness to self or others” shall include, but not be limited to, a finding of incompetence to stand trial pursuant to the provisions of Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with murder, mayhem, aggravated mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, carjacking perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of subdivision (b) of Section 451 of the Penal Code, a violation of paragraph (1) or (2) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 288 of the Penal Code, any of the following acts when committed by force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person: a violation of paragraph (1) or (2) of subdivision (a) of Section 262 of the Penal Code, a violation of Section 264.1, 286, or 288a of the Penal Code, or a violation of subdivision (a) of Section 289 of the Penal Code; a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 18725, 18740, 18745, 18750, or 18755 of the Penal Code, or if the defendant has been charged with a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person.

(2) “Developmental disability” shall have the same meaning as defined in subdivision (a) of Section 4512.

(b) (1) A person with a developmental disability shall not be committed to the State Department of Developmental Services pursuant to this article unless he or she is a person described in paragraph (2) or (3) of subdivision (a) of Section 7505 and is dangerous to self or others *or the person currently is a resident of a state developmental center or state-operated community facility pursuant to an order of commitment made pursuant to this article prior to July 1, 2012, and is being recommitted pursuant to paragraph (3) of this subdivision.*

1 (2) If the person with a developmental disability is in the care
2 or treatment of a state hospital, developmental center, or other
3 facility at the time a petition for commitment is filed pursuant to
4 this article, proof of a recent overt act while in the care and
5 treatment of a state hospital, developmental center, or other facility
6 is not required in order to find that the person is a danger to self
7 or others.

8 (3) *In the event subsequent petitions are filed with respect to a*
9 *resident of a state developmental center or a state-operated*
10 *community facility committed prior to July 1, 2012, the procedures*
11 *followed and criteria for recommitment shall be the same as with*
12 *the initial petition for commitment.*

13 ~~(3)~~

14 (4) In any proceedings conducted under the authority of this
15 article, the person alleged to have a developmental disability shall
16 be informed of his or her right to counsel by the court, and if the
17 person does not have an attorney for the proceedings, the court
18 shall immediately appoint the public defender or other attorney to
19 represent him or her. The person shall pay the cost for the legal
20 services if he or she is able to do so. At any judicial proceeding
21 under the provisions of this article, allegations that a person has a
22 developmental disability and is dangerous to himself or herself or
23 to others shall be presented by the district attorney for the county
24 unless the board of supervisors, by ordinance or resolution,
25 delegates this authority to the county counsel. The clients' rights
26 advocate for the regional center may attend any judicial
27 proceedings to assist in protecting the individual's rights.

28 (c) (1) Any order of commitment made pursuant to this article
29 with respect to a person described in paragraph (3) of subdivision
30 (a) of Section 7505 shall expire automatically one year after the
31 order of commitment is made. This section shall not be construed
32 to prohibit any party enumerated in Section 6502 from filing
33 subsequent petitions for additional periods of commitment. In the
34 event subsequent petitions are filed, the procedures followed shall
35 be the same as with an initial petition for commitment.

36 (2) Any order of commitment made pursuant to this article *on*
37 *or after July, 2012,* with respect to *the admission to a*
38 *developmental center of* a person described in paragraph (2) of
39 subdivision (a) of Section 7505 shall expire automatically six
40 months after the earlier of the order of commitment pursuant to

1 this section or the order of a placement in a developmental center
2 pursuant to Section 6506, unless the regional center, prior to the
3 expiration of the order of commitment, notifies the court in writing
4 of the need for an extension. The required notice shall state facts
5 demonstrating that the individual continues to be in acute crisis as
6 defined in paragraph (1) of subdivision (d) of Section 4418.7 and
7 the justification for the requested extension, and shall be
8 accompanied by the comprehensive assessment and plan described
9 in subdivision (e) of Section 4418.7. An order granting an extension
10 shall not extend the total period of commitment beyond one year,
11 including any placement in a developmental center pursuant to
12 Section 6506. If, prior to expiration of one year, the regional center
13 notifies the court in writing of facts demonstrating that, due to
14 circumstances beyond the regional center's control, the placement
15 cannot be made prior to expiration of the extension, and the court
16 determines that good cause exists, the court may grant one further
17 extension of up to 30 days. The court may also issue any orders
18 the court deems appropriate to ensure that necessary steps are taken
19 to ensure that the individual can be safely and appropriately
20 transitioned to the community in a timely manner. The required
21 notice shall state facts demonstrating that the regional center has
22 made significant progress implementing the plan described in
23 subdivision (e) of Section 4418.7 and that extraordinary
24 circumstances exist beyond the regional center's control that have
25 prevented the plan's implementation. Nothing in this paragraph
26 precludes the individual or any person acting on his or her behalf
27 from making a request for release pursuant to Section 4800, or
28 counsel for the individual from filing a petition for habeas corpus
29 pursuant to Section 4801. Notwithstanding subdivision (a) of
30 Section 4801, for purposes of this paragraph, judicial review shall
31 be in the superior court of the county that issued the order of
32 commitment pursuant to this section.

33 *SEC. 22. Section 10101.1 of the Welfare and Institutions Code,*
34 *as amended by Section 9 of Chapter 69 of the Statutes of 1993, is*
35 *amended to read:*

36 10101.1. (a) For the 1991–92 fiscal year and each fiscal year
37 thereafter, the state's share of the costs of the county services block
38 grant and the in-home supportive services administration
39 requirements shall be 70 percent of the actual nonfederal

1 expenditures or the amount appropriated by the Legislature for
2 that purpose, whichever is less.

3 (b) Federal funds received under Title 20 of the federal Social
4 Security Act (42 U.S.C. Sec. 1397 et seq.) and appropriated by the
5 Legislature for the county services block grant and the in-home
6 supportive services administration shall be considered part of the
7 state share of cost and not part of the federal expenditures for this
8 purpose.

9 (c) *This section shall become operative only if Chapter 45 of*
10 *the Statutes of 2012 is deemed inoperative pursuant to Section 15*
11 *of that chapter.*

12 SEC. 23. *Section 10101.1 of the Welfare and Institutions Code,*
13 *as amended by Section 4 of Chapter 45 of the Statutes of 2012, is*
14 *amended to read:*

15 10101.1. (a) For the 1991–92 fiscal year and each fiscal year
16 thereafter, the state’s share of the costs of the county services block
17 grant and the in-home supportive services administration
18 requirements shall be 70 percent of the actual nonfederal
19 expenditures or the amount appropriated by the Legislature for
20 that purpose, whichever is less.

21 (b) Federal funds received under Title 20 of the federal Social
22 Security Act (42 U.S.C. Sec. 1397 et seq.) and appropriated by the
23 Legislature for the county services block grant and the in-home
24 supportive services administration shall be considered part of the
25 state share of cost and not part of the federal expenditures for this
26 purpose.

27 (c) For the period during which Section 12306.15 is operative,
28 each county’s share of the nonfederal costs of the county services
29 block grant and the in-home supportive services administration
30 requirements as specified in subdivision (a) shall remain, but the
31 County IHSS Maintenance of Effort pursuant to Section 12306.15
32 shall be in lieu of that share.

33 (d) *This section shall become inoperative only if Chapter 45 of*
34 *the Statutes of 2012 is deemed inoperative pursuant to Section 15*
35 *of that chapter.*

36 SEC. 24. *Section 11265.45 of the Welfare and Institutions Code*
37 *is amended to read:*

38 11265.45. (a) Notwithstanding Sections 11265.1, 11265.2,
39 and 11265.3, a CalWORKs assistance unit that does not include
40 an eligible adult shall not be subject to periodic reporting

1 requirements other than the annual redetermination required in
2 Section 11265. This subdivision shall not apply to a CalWORKs
3 assistance unit in which the only eligible adult is under sanction
4 in accordance with Section 11327.5.

5 (b) For an assistance unit described in subdivision (a), grant
6 calculations may not be revised to adjust the grant amount during
7 the year except as provided in subdivisions (c), (d), (e), and (f),
8 Section ~~11265.46~~ 11265.47 and as otherwise established by the
9 department by regulation.

10 (c) Notwithstanding subdivision (b), statutes and regulations
11 relating to the 48-month time limit, age limitations for children
12 under Section 11253, and sanctions and financial penalties affecting
13 eligibility or grant amount shall be applicable as provided in those
14 statutes and regulations.

15 (d) If the county is notified that a child for whom assistance is
16 currently being paid has been placed in a foster care home, the
17 county shall discontinue aid to the child at the end of the month
18 of placement. The county shall discontinue the case if the
19 remaining assistance unit members are not otherwise eligible.

20 (e) If the county determines that a recipient is no longer a
21 California resident, pursuant to Section 11100, the recipient shall
22 be discontinued *with timely and adequate notice*. The county shall
23 discontinue the case if the remaining assistance unit members are
24 not otherwise eligible.

25 (f) If an overpayment has occurred, the county shall commence
26 any applicable grant adjustment in accordance with Section 11004
27 as of the first monthly grant after timely and adequate notice is
28 provided.

29 (g) This section shall become operative on the first day of the
30 first month following 90 days after the effective date of the act
31 that added this section, or October 1, 2012, whichever is later.

32 *SEC. 25. Section 11265.47 of the Welfare and Institutions Code*
33 *is amended to read:*

34 11265.47. (a) The department shall establish an income
35 reporting threshold for CalWORKs assistance units described in
36 subdivision (a) of Section 11265.45.

37 (b) The income reporting threshold described in subdivision (a)
38 shall be the lesser of the following:

1 (1) Fifty-five percent of the monthly income for a family of
2 three at the federal poverty level, plus the amount of income last
3 used to calculate the recipient's monthly benefits.

4 (2) The amount likely to render the recipient ineligible for
5 federal Supplemental Nutrition Assistance Program benefits.

6 (3) The amount likely to render the recipient ineligible for
7 CalWORKs benefits.

8 (c) A recipient described in subdivision (a) of Section 11265.45
9 shall report to the county, orally or in writing, within 10 days,
10 when any of the following occurs:

11 (1) The monthly household income exceeds the threshold
12 established pursuant to this section.

13 (2) Any change in household composition.

14 (3) The household address has changed.

15 (4) A drug felony conviction, as specified in Section 11251.3.

16 (5) An incidence of an individual fleeing prosecution or custody
17 or confinement, or violating a condition or probation or parole, as
18 specified in Section 11486.5.

19 (d) When a recipient described in subdivision (a) of Section
20 11265.45 reports income or a household composition change
21 pursuant to subdivision (c), the county shall redetermine eligibility
22 and grant amounts as follows:

23 (1) If the recipient reports an increase in income or household
24 composition change for the first through 11th months of a year,
25 the county shall verify the report and determine the recipient's
26 financial eligibility and grant amount.

27 (A) If the recipient is determined to be financially ineligible
28 based on the increase in income or household composition change,
29 the county shall discontinue the recipient with timely and adequate
30 notice, effective at the end of the month in which the change
31 occurred.

32 (B) If it is determined that the recipient's grant amount should
33 decrease based on the increase in income, or increase or decrease
34 based on a change in household composition, the county shall
35 increase or reduce the recipient's grant amount for the remainder
36 of the year with timely and adequate notice, effective the first of
37 the month following the month in which the change occurred.

38 (2) If the recipient reports an increase in income for the 12th
39 month of a grant year, the county shall verify this report and

1 consider this income in redetermining eligibility and the grant
2 amount for the following year.

3 (e) During the year, a recipient described in subdivision (a) of
4 Section 11265.45 may report to the county, orally or in writing,
5 any changes in income that may increase the recipient's grant. ~~If~~
6 ~~the reported change is for the first through 11th month of a grant~~
7 ~~year and results in an increase in benefits, the county shall~~
8 ~~redetermine the grant for the current month and any remaining~~
9 ~~months in the year. If the reported change is for the 12th month~~
10 ~~of the grant year, the county shall not redetermine the grant for~~
11 ~~the current year, but shall redetermine the grant for the following~~
12 ~~year. Increases in the grant that result from reported changes in~~
13 ~~income shall be effective for the entire month in which the change~~
14 ~~is reported and any remaining months in the year. If the reported~~
15 ~~change in income results in an increase in benefits, the county~~
16 ~~shall issue the increased benefit amount within 10 days of receiving~~
17 ~~required verification.~~

18 (f) During the year, a recipient described in subdivision (a) of
19 Section 11265.45 may request that the county discontinue the
20 recipient's entire assistance unit or any individual member of the
21 assistance unit who is no longer in the home or is an optional
22 member of the assistance unit. If the recipient's request is verbal,
23 the county shall provide a 10-day notice before discontinuing
24 benefits. If the recipient's request is in writing, the county shall
25 discontinue benefits effective the end of the month in which the
26 request is made, and simultaneously shall issue a notice informing
27 the recipient of the discontinuance.

28 (g) This section shall become operative on the first day of the
29 first month following 90 days after the effective date of the act
30 that added this section, or October 1, 2012, whichever is later.

31 *SEC. 26. Section 11322.8 of the Welfare and Institutions Code,*
32 *as added by Section 16 of Chapter 47 of the Statutes of 2012, is*
33 *amended to read:*

34 11322.8. (a) For a recipient required to participate in
35 accordance with paragraph (1) of subdivision (a) of Section
36 11322.85, unless the recipient is otherwise exempt, the following
37 shall apply:

38 (1) (A) An adult recipient in a one-parent assistance unit that
39 does not include a child under six years of age shall participate in
40 welfare-to-work activities for 30 hours each week.

1 (B) An adult recipient in a one-parent assistance unit that
2 includes a child under six years of age shall participate in
3 welfare-to-work activities for 20 hours each week.

4 (2) An adult recipient who is an unemployed parent, as defined
5 in ~~Section 11201~~ 11201, shall participate in at least 35 hours of
6 welfare-to-work activities each week. However, both parents in a
7 two-parent assistance unit may contribute to the 35 hours.

8 (b) For a recipient required to participate in accordance with
9 paragraph (3) of subdivision (a) of Section 11322.85, the following
10 shall apply:

11 (1) Unless otherwise exempt, an adult recipient in a one-parent
12 assistance unit shall participate in welfare-to-work activities for
13 30 hours per week, subject to the special rules and limitations
14 described in Section 607(c)(1)(A) of Title 42 of the United States
15 Code as of the operative date of this section, as provided in
16 subdivision (c).

17 (2) Unless otherwise exempt, an adult recipient in a one-parent
18 assistance unit that includes a child under six years of age shall
19 participate in welfare-to-work activities for 20 hours each week,
20 as described in Section 607 (c)(2)(B) of Title 42 of the United
21 States Code as of the operative date of this section, as provided in
22 subdivision (c).

23 (3) Unless otherwise exempt, an adult recipient who is an
24 unemployed parent, as defined in Section 11201, shall participate
25 in welfare-to-work activities for 35 hours per week, subject to the
26 special rules and limitations described in Section 607(c)(1)(B) of
27 Title 42 of the United States Code as of the operative date of this
28 section, as provided in subdivision (c).

29 (c) This section shall become operative on January 1, 2013.

30 *SEC. 27. Section 11325.21 of the Welfare and Institutions Code*
31 *is amended to read:*

32 11325.21. (a) Any individual who is required to participate in
33 welfare-to-work activities pursuant to this article shall enter into
34 a written welfare-to-work plan with the county welfare department
35 after assessment as required by subdivision (b) of Section 11320.1,
36 but no more than 90 days after the date that a recipient's eligibility
37 for aid is determined or the date the recipient is required to
38 participate in welfare-to-work activities pursuant to Section
39 11320.3. The recipient and the county may enter into a
40 welfare-to-work plan as late as 90 days after the completion of the

1 job search activity, as defined in subdivision (a) of Section 11320.1,
2 if the job search activity is initiated within 30 days after the
3 recipient's eligibility for aid is determined. The plan shall include
4 the activities and services that will move the individual into
5 employment.

6 (b) The county shall allow the participant three working days
7 after completion of the plan or subsequent amendments to the plan
8 in which to evaluate and request changes to the terms of the plan.

9 (c) The plan shall be written in clear and understandable
10 language, and have a simple and easy-to-read format.

11 (d) The plan shall contain at least all of the following general
12 information:

13 (1) A general description of the program provided for in this
14 article, including available program components and supportive
15 services.

16 (2) A general description of the rights, duties, and
17 responsibilities of program participants, including a list of the
18 exemptions from the required participation under this article, the
19 consequences of a refusal to participate in program components,
20 and criteria for successful completion of the program.

21 (3) A description of the grace period required in paragraph (5)
22 of subdivision (b) of Section 11325.22.

23 (e) The plan shall specify, and shall be amended to reflect
24 changes in, the participant's welfare-to-work activity, a description
25 of services to be provided in accordance with Sections 11322.6,
26 ~~and 11322.8, and 11322.85~~, as needed, and specific requirements
27 for successful completion of assigned activities including required
28 hours of participation.

29 The plan shall also include a general description of supportive
30 services pursuant to Section 11323.2 that are to be provided as
31 necessary for the participant to complete assigned program
32 activities.

33 (f) Any assignment to a program component shall be reflected
34 in the plan or an amendment to the plan. The participant shall
35 maintain satisfactory progress toward employment through the
36 methods set forth in the plan, and the county shall provide the
37 services pursuant to Section 11323.2.

38 (g) This section shall not apply to individuals subject to Article
39 3.5 (commencing with Section 11331) during the time that article
40 is operative.

1 *SEC. 28. Section 11325.23 of the Welfare and Institutions Code*
2 *is amended to read:*

3 11325.23. (a) (1) Except as provided in paragraph (2), any
4 student who, at the time he or she is required to participate under
5 this article pursuant to Section 11320.3, is enrolled in any
6 undergraduate degree or certificate program that leads to
7 employment may continue in that program if he or she is making
8 satisfactory progress in that program, the county determines that
9 continuing in the program is likely to lead to self-supporting
10 employment for that recipient, and the welfare-to-work plan reflects
11 that determination.

12 (2) Any individual who possesses a baccalaureate degree shall
13 not be eligible to participate under this section unless the individual
14 is pursuing a California regular classroom teaching credential in
15 a college or university with an approved teacher credential
16 preparation program.

17 (3) (A) Subject to the limitation provided in subdivision (f), a
18 program shall be determined to lead to employment if it is on a
19 list of programs that the county welfare department and local
20 education agencies or providers agree lead to employment. The
21 list shall be agreed to annually, with the first list completed no
22 later than January 31, 1998. By January 1, 2000, all educational
23 providers shall report data regarding programs on the list for the
24 purposes of the report card established under Section 15037.1 of
25 the Unemployment Insurance Code for the programs to remain on
26 the list.

27 (B) For students not in a program on the list prepared under
28 subparagraph (A), the county shall determine if the program leads
29 to employment. The recipient shall be allowed to continue in the
30 program if the recipient demonstrates to the county that the
31 program will lead to self-supporting employment for that recipient
32 and the documentation is included in the welfare-to-work plan.

33 (C) If participation in educational or vocational training, as
34 determined by the number of hours required for classroom,
35 laboratory, or internship activities, is not at least ~~32~~ 30 hours, *or*
36 *if subparagraph (B) of paragraph (1) of subdivision (a) of Section*
37 *11322.8 applies, 20 hours,* the county shall require concurrent
38 participation in work activities pursuant to subdivisions (a) to (j),
39 inclusive, of Section 11322.6 and Section 11325.22.

(b) Participation in the self-initiated education or vocational training program shall be reflected in the welfare-to-work plan required by Section 11325.21. The welfare-to-work plan shall provide that whenever an individual ceases to participate in, refuses to attend regularly, or does not maintain satisfactory progress in the self-initiated program, the individual shall participate under this article in accordance with Section 11325.22.

(c) Any person whose previously approved self-initiated education or training program is interrupted for reasons that meet the good cause criteria specified in subdivision (f) of Section 11320.3 may resume participation in the same program if the participant maintained good standing in the program while participating and the self-initiated program continues to meet the approval criteria.

(d) Supportive services reimbursement shall be provided for any participant in a self-initiated training or education program approved under this subdivision. This reimbursement shall be provided if no other source of funding for those costs is available. Any offset to supportive services payments shall be made in accordance with subdivision (e) of Section 11323.4.

(e) Any student who, at the time he or she is required to participate under this article pursuant to Section 11320.3, has been enrolled and is making satisfactory progress in a degree or certificate program, but does not meet the criteria set forth in subdivision (a), shall have until the beginning of the next educational semester or quarter break to continue his or her educational program if he or she continues to make satisfactory progress. At the time the educational break occurs, the individual is required to participate pursuant to Section 11320.1. A recipient not expected to complete the program by the next break may continue his or her education, provided he or she transfers at the end of the current quarter or semester to a program that qualifies under that subdivision, the county determines that participation is likely to lead to self-supporting employment of the recipient, and the welfare-to-work plan reflects that determination.

(f) Any degree, certificate, or vocational program offered by a private postsecondary training provider shall not be approved under this section unless the program is either approved or exempted by the appropriate state regulatory agency and the program is in compliance with all other provisions of law.

1 *SEC. 29. Section 11334.8 of the Welfare and Institutions Code*
2 *is amended to read:*

3 11334.8. (a) Notwithstanding any other law, this article shall
4 be fully operative commencing April 1, 2013. For the period of
5 July 1, 2012, to March 31, 2013, inclusive, this article shall be
6 operative in accordance with the provisions described in
7 subdivision (b).

8 (b) Commencing July 1, 2012, until March 31, 2013, all of the
9 following shall apply:

10 (1) For the 2012–13 fiscal year, counties shall be provided with
11 full or partial year funding, depending on the pace of their phase-in
12 to full implementation of the program by April 1, 2013, as
13 determined by the department, in collaboration with county welfare
14 directors.

15 (2) Recipients of aid, as defined in Section 11331.5, shall be
16 required to participate in Cal-Learn Program intensive case
17 management services, as defined in subdivision (a) of Section
18 11332.5, only in counties where those services are available.

19 (3) ~~A pregnant woman with no other children who was~~
20 ~~determined to be eligible for aid in the first or second trimester of~~
21 ~~her pregnancy for purposes of participating in the Cal-Learn~~
22 ~~Program prior to July 1, 2011, shall be eligible to receive aid upon~~
23 ~~verification of pregnancy as long as she remains otherwise eligible~~
24 ~~for aid under this chapter. Notwithstanding subdivision (b) of~~
25 ~~Section 11450, for the transitional phase-in period of July 1, 2012,~~
26 ~~to March 31, 2013, inclusive, aid shall also be paid to a pregnant~~
27 ~~woman with no other children in the amount which would otherwise~~
28 ~~be paid to one person under subdivision (a) of Section 11450 at~~
29 ~~any time after verification of pregnancy if the pregnant woman is~~
30 ~~eligible for, or would be eligible for, the Cal-Learn Program~~
31 ~~described in Article 3.5 (commencing with Section 11331) and if~~
32 ~~the mother, and child, if born, would have qualified for aid under~~
33 ~~this chapter.~~

34 (c) Each recipient who qualifies for benefits under this article
35 shall be entitled to benefits to the degree that they are provided by
36 the recipient's county.

37 (d) This section shall remain in effect only until April 1, 2013,
38 and as of that date is repealed, unless a later enacted statute, that
39 is enacted before April 1, 2013, deletes or extends that date.

1 *SEC. 30. Section 11451.5 of the Welfare and Institutions Code,*
2 *as added by Section 26 of Chapter 47 of the Statutes of 2012, is*
3 *amended to read:*

4 11451.5. (a) The following income, ~~except for recipients~~
5 ~~described in subdivision (a) of Section 11265.45, except as~~
6 ~~provided by subdivision (f) of Section 11322.6, determined for~~
7 ~~the semiannual period pursuant to Sections 11265.2 and 11265.3,~~
8 shall be exempt from the calculation of the income of the family
9 for purposes of subdivision (a) of Section 11450:

10 (1) If disability-based unearned income does not exceed two
11 hundred twenty-five dollars (\$225), both of the following amounts:

12 (A) All disability-based unearned income, plus any amount of
13 not otherwise exempt earned income equal to the amount of the
14 difference between the amount of disability-based unearned income
15 and two hundred twenty-five dollars (\$225).

16 (B) Fifty percent of all not otherwise exempt earned income in
17 excess of the amount applied to meet the differential applied in
18 subparagraph (A).

19 (2) If disability-based unearned income exceeds two hundred
20 twenty-five dollars (\$225), both of the following amounts:

21 (A) All of the first two hundred twenty-five dollars (\$225) in
22 disability-based unearned income.

23 (B) Fifty percent of all earned income.

24 (b) For purposes of this section:

25 (1) Earned income means gross income received as wages,
26 salary, employer-provided sick leave benefits, commissions, or
27 profits from activities such as a business enterprise or farming in
28 which the recipient is engaged as a self-employed individual or as
29 an employee.

30 (2) Disability-based unearned income means state disability
31 insurance benefits, private disability insurance benefits, temporary
32 workers' compensation benefits, and social security disability
33 benefits.

34 (3) Unearned income means any income not described in
35 paragraph (1) or (2).

36 (c) This section shall become operative on October 1, 2013.

37 *SEC. 31. Section 12300.5 of the Welfare and Institutions Code*
38 *is amended to read:*

39 12300.5. (a) The California In-Home Supportive Services
40 Authority, hereafter referred to as the Statewide Authority,

1 established pursuant to Section 6531.5 of the Government Code,
2 shall be the entity authorized to meet and confer in good faith
3 regarding wages, benefits, and other terms and conditions of
4 employment in accordance with Title 23 (commencing with Section
5 110000) of the Government Code, with representatives of
6 recognized employee organizations for any individual provider
7 who is employed by a recipient of in-home supportive services
8 described in Section 12300 *after the county implementation date*
9 *as described in subdivision (a) of Section 12300.7.*

10 (b) The Statewide Authority and the Department of Human
11 Resources and other state departments may enter into a
12 memorandum of understanding or other agreement to have the
13 Department of Human Resources meet and confer on behalf of the
14 Statewide Authority for the purposes described in subdivision (a)
15 or to provide the Statewide Authority with other services,
16 including, but not limited to, administrative and legal services.

17 (c) ~~Neither the state nor~~ *The state*, the Statewide Authority, *or*
18 *any county that has met the conditions in Section 12300.7* shall
19 *not* be deemed to be the employer of any individual provider who
20 is employed by a recipient of in-home supportive services as
21 described in Section 12300 for purposes of liability due to the
22 negligence or intentional torts of the individual provider.

23 *SEC. 32. Section 12300.7 of the Welfare and Institutions Code*
24 *is amended to read:*

25 12300.7. (a) No sooner than March 1, 2013, the California
26 In-Home Supportive Services Authority shall assume the
27 responsibilities set forth in Title 23 (commencing with Section
28 110000) of the Government Code in a county or city and county
29 upon notification by the Director of Health Care Services that the
30 enrollment of eligible Medi-Cal beneficiaries described in Sections
31 14132.275, 14182.16, and 14182.17 ~~have~~ *has* been completed in
32 that county or city and county.

33 (b) A county or city and county, subject to subdivision (a) and
34 upon notification from the Director of Health Care Services, shall
35 ~~do any one or both~~ of the following:

36 ~~(1) Continue to have its public authority perform the functions~~
37 ~~set forth in the county ordinance existing at the time of the~~
38 ~~notification pursuant to subdivision (a) and established pursuant~~
39 ~~to Section 12301.6, excluding subdivision (c) of that section.~~

~~(2) Continue to have the entity perform the functions in the existing contract at the time of the notification pursuant to subdivision (a) established pursuant to Section 12301.6, excluding subdivision (c) of that section.~~

(1) Have the entity that performed functions set forth in the county ordinance or contract in effect at the time of the notification pursuant to subdivision (a) and established pursuant to Section 12301.6 continue to perform those functions, excluding subdivision (c) of that section.

~~(3)~~
~~(2) Assume the functions performed by an the entity or public authority, at the time of the notification pursuant to subdivision (a), pursuant to Section 12301.6, excluding subdivision (c) and paragraph (2) of subdivision (i) of that section.~~

~~(c) If a county or city and county assumes the functions described in paragraph (3) (2) of subdivision (b), it may do any of the following:~~

~~(1) Contract establish or contract with an entity for the performance of any or all of the functions assumed.~~

~~(2) Contract with an entity pursuant to Section 12301.6 for the performance of any or all functions assumed.~~

~~(3) Establish a public authority pursuant to Section 12301.6 for the performance of any functions assumed.~~

SEC. 33. Section 12302.21 of the Welfare and Institutions Code is amended to read:

12302.21. (a) For purposes of providing cost-efficient workers' compensation coverage for in-home supportive services providers under this article and paragraph (2) of subdivision (e) of Section 14186.35, the department shall assume responsibility for providing workers' compensation coverage for employees of nonprofit agencies and proprietary agencies who provide in-home supportive services pursuant to contracts with counties and managed care health plans. The workers' compensation coverage provided for these employees shall be provided on the same terms as provided to providers under Section 12302.2 and 12302.5.

(b) A county that has existing contracts with nonprofit agencies or proprietary agencies whose employees will be provided workers' compensation coverage by the department pursuant to subdivision (a), shall reduce the contract hourly rate by fifty cents (\$0.50) per

1 hour, effective on the date that the department implements this
2 section.

3 *SEC. 34. Section 12302.25 of the Welfare and Institutions Code*
4 *is amended to read:*

5 12302.25. (a) On or before January 1, 2003, each county shall
6 act as, or establish, an employer for in-home supportive service
7 providers under Section 12302.2 for the purposes of Chapter 10
8 (commencing with Section 3500) of Division 4 of Title 1 of the
9 Government Code and other applicable state or federal laws, *except*
10 *as provided in Title 23 (commencing with Section 110000) of the*
11 *Government Code*. Each county may utilize a public authority or
12 nonprofit consortium as authorized under Section 12301.6, the
13 contract mode as authorized under Sections 12302 and 12302.1,
14 county administration of the individual provider mode as authorized
15 under Sections 12302 and 12302.2 for purposes of acting as, or
16 providing, an employer under Chapter 10 (commencing with
17 Section 3500) of Division 4 of Title 1 of the Government Code,
18 county civil service personnel as authorized under Section 12302,
19 or mixed modes of service authorized pursuant to this article and
20 may establish regional agreements in establishing an employer for
21 purposes of this subdivision for providers of in-home supportive
22 services. Within 30 days of the effective date of this section, the
23 department shall develop a timetable for implementation of this
24 subdivision to ensure orderly compliance by counties. Recipients
25 of in-home supportive services shall retain the right to choose the
26 individuals that provide their care and to recruit, select, train, reject,
27 or change any provider under the contract mode or to hire, fire,
28 train, and supervise any provider under any other mode of service.
29 Upon request of a recipient, and in addition to a county's selected
30 method of establishing an employer for in-home supportive service
31 providers pursuant to this subdivision, counties with an IHSS
32 caseload of more than 500 shall be required to offer an individual
33 provider employer option.

34 (b) Nothing in this section shall prohibit any negotiations or
35 agreement regarding collective bargaining or any wage and benefit
36 enhancements.

37 (c) Nothing in this section shall be construed to affect the state's
38 responsibility with respect to the state payroll system,
39 unemployment insurance, or workers' compensation and other

1 provisions of Section 12302.2 for providers of in-home supportive
2 services.

3 (d) Prior to implementing subdivision (a), a county may establish
4 an advisory committee as authorized by Section 12301.3 and solicit
5 recommendations from the advisory committee on the preferred
6 mode or modes of service to be utilized in the county for in-home
7 supportive services.

8 (e) If a county establishes an in-home supportive services
9 advisory committee pursuant to Section 12301.3, the county shall
10 take into account the advice and recommendations of the committee
11 prior to making policy and funding decisions about the program
12 on an ongoing basis.

13 (f) In implementing and administering this section, no county,
14 public authority, nonprofit consortium, contractor, or a combination
15 thereof, that delivers in-home supportive services shall reduce the
16 hours of service for any recipient below the amount determined
17 to be necessary under the uniform assessment guidelines
18 established by the department.

19 (g) Any agreement between a county and an entity acting as an
20 employer under subdivision (a) shall include a provision that
21 requires that funds appropriated by the state for wage increases
22 for in-home supportive services providers be used exclusively for
23 that purpose. Counties or the state may undertake audits of the
24 entities acting as employers under the terms of subdivision (a) to
25 verify compliance with this subdivision.

26 (h) On or before January 15, 2003, each county shall provide
27 the department with documentation that demonstrates compliance
28 with the January 1, 2003, deadline specified in subdivision (a).
29 The documentation shall include, but is not limited to, any of the
30 following:

31 (1) The public authority ordinance and employee relations
32 procedures.

33 (2) The invitations to bid and requests for proposal for contract
34 services for the contract mode.

35 (3) An invitation to bid and request for proposal for the operation
36 of a nonprofit consortium.

37 (4) A county board of supervisors' resolution resolving that the
38 county has chosen to act as the employer required by subdivision
39 (a) either by utilizing county employees, as authorized by Section

1 12302, to provide in-home supportive services or through county
2 administration of individual providers.

3 (5) Any combination of the documentation required under
4 paragraphs (1) to (4), inclusive, that reflects the decision of a
5 county to provide mixed modes of service as authorized under
6 subdivision (a).

7 (i) Any county that is unable to provide the documentation
8 required by subdivision (h) by January 15, 2003, may provide, on
9 or before that date, a written notice to the department that does all
10 of the following:

11 (1) Explains the county's failure to provide the required
12 documentation.

13 (2) Describes the county's plan for coming into compliance
14 with the requirements of this section.

15 (3) Includes a timetable for the county to come into compliance
16 with this section, but in no case shall the timetable extend beyond
17 March 31, 2003.

18 (j) Any county that fails to provide the documentation required
19 by subdivision (h) and also fails to provide the written notice as
20 allowed under subdivision (i), shall be deemed by operation of
21 law to be the employer of IHSS individual providers for purposes
22 of Chapter 10 (commencing with Section 3500) of Division 4 of
23 Title 1 of the Government Code as of January 15, 2003.

24 (k) Any county that provides a written notice as allowed under
25 subdivision (i), but fails to provide the documentation required
26 under subdivision (h) by March 31, 2003, shall be deemed by
27 operation of law to be the employer of IHSS individual providers
28 for purposes of Chapter 10 (commencing with Section 3500) of
29 Division 4 of Title 1 of the Government Code as of April 1, 2003.

30 (l) Any county deemed by operation of law, pursuant to
31 subdivision (j) or (k), to be the employer of IHSS individual
32 providers for purposes of Chapter 10 (commencing with Section
33 3500) of Division 4 of Title 1 of the Government Code shall
34 continue to act in that capacity until the county notifies the
35 department that it has established another employer as permitted
36 by this section, and has provided the department with the
37 documentation required under subdivision (h) demonstrating the
38 change.

39 *SEC. 35. Section 12302.6 of the Welfare and Institutions Code*
40 *is amended to read:*

1 12302.6. (a) A managed care health plan may enter into
2 contracts pursuant to paragraph (14) of subdivision (a) of Section
3 14186.35 solely in the manner prescribed in this section.

4 (b) For purposes of this section:

5 (1) “Agency” means a city, county, city and county agency,
6 local health district, ~~nonprofit entity, or a proprietary agency, or~~
7 *an entity* that has or seeks a contract to provide in-home supportive
8 services pursuant to Section 12301.6 or 12302 or this article.

9 (2) “Contract provider” means any person employed by an
10 agency for the provision of services listed in this ~~subdivision~~
11 *section*.

12 (3) “County” means a political unit, unless otherwise indicated.

13 (4) “Department” means the State Department of Social
14 Services.

15 (5) “Individual provider” means any person authorized to
16 provide in-home supportive services under this article and Sections
17 14132.95, 14132.952, and 14132.956, pursuant to the individual
18 provider mode referenced in Section 12302.2. As used in this
19 paragraph, “individual provider” shall not include any person
20 providing in-home supportive services pursuant to a
21 county-employed homemaker mode or ~~any person employed by~~
22 *an agency a contract provider*.

23 (6) “Individual provider rate” means the combined total rate for
24 wages and benefits for individual providers, as approved by the
25 Statewide Authority or its delegate.

26 (7) “Managed care health plan” shall have the same meaning
27 as set forth in Section 14186.1.

28 (8) “Qualified agency” means an agency that has been certified
29 by the department.

30 (9) “Responsible party” means an officer or director of the
31 applicant, a shareholder with a beneficial interest in the applicant
32 exceeding 10 percent, or the person who will be primarily
33 responsible for any contract with the managed care health plan.

34 (10) “Statewide Authority” means the California In-Home
35 Supportive Services Authority established pursuant to Section
36 6531.5 of the Government Code.

37 (c) Managed care health plans shall assume the authority granted
38 to counties pursuant to Section 12302 to contract for the provision
39 of in-home supportive services with an agency.

(1) (A) Managed care health plans shall assume the authority as described in subdivision (a) only upon ~~their~~ *the* integration of *the In-Home Supportive Services Program* into Medi-Cal managed care pursuant to Article 5.7 (commencing with Section 14186) of Chapter 7 *in the counties participating in the demonstration project authorized under Section 14132.275. For individuals exempt from the provisions of Article 5.7 (commencing with Section 14186) of Chapter 7, as specified in subdivision (c) of Section 14186.2, this section shall not apply, and Section 12302 shall apply.*

(B) If, at the time a managed care health plan assumes contracting authority pursuant to this subdivision with respect to a particular geographic area, there is an existing contract between the county and an agency for the provision of in-home supportive services, the managed care health plan shall enter into a contract with the county to continue providing the services, and the county shall maintain its existing contract with the agency for the provision of in-home supportive services until such time as that contract is due to expire. ~~Counties~~ *Agencies* that have these existing contracts ~~with agencies~~ *a county* at the time a managed care health plan assumes contracting authority pursuant to this subdivision shall automatically be certified as qualified agencies.

(2) An agency that is a county, or has an existing contract with a county, as of the date that the managed care health plan in the corresponding geographic area assumes contracting authority with respect to agencies, shall be deemed to be certified as a qualified agency with respect to the geographic area in which the agency has a contract to provide in-home supportive services with respect to the type of in-home supportive services provided pursuant to that contract. Where a county has an existing contract with an agency, the certification provided for in this subdivision shall remain in effect until the triennial deadline established by paragraph (3) of subdivision (d) that occurs no less than one year after the expiration of the contract in effect at the time that the managed care health plan assumes contracting authority with respect to agencies. However, if an agency that is party to such a contract seeks to expand the geographic area in which it is certified to provide services or seeks to expand the types of services for which it is certified, it must submit an application in accordance with ~~Section 12342.3~~ *subdivision (d)*.

(d) An agency contracting with a managed care health plan for the provision of in-home supportive services shall be certified as a qualified agency by the department in consultation with the State Department of Health Care Services.

(1) The certification of an agency as a qualified agency shall be with respect to a specific geographic area and an identified category of services.

(2) *The department shall develop an application form and establish the conditions to be met for certification as a qualified agency.*

(2)
(3) An agency seeking certification as a qualified agency shall submit to the department a verified application showing that it satisfies the conditions *established by the department, pursuant to this subdivision*, and ~~providing~~ shall provide the information specified. ~~The department shall develop the form and establish the conditions to be met. The verified application shall include the specified, which shall include all of the following:~~

(A) *The three most recent audited financial statements or other independently verified documentation showing that the applicant maintains liquid assets sufficient to cover 180 days of in-home supportive services' operating expenses, evidence expenses. A nonprofit or public entity applicant may instead satisfy this requirement by providing a letter of support signed by a representative of the public entity or managed care organization responsible for the majority of the applicant's revenue stating its intent to continue to provide funding for IHSS in the event there is a disruption in the applicant's revenue.*

(B) *Evidence of liability and workers' compensation insurance, and evidence insurance.*

(C) *Evidence that the applicant has not been the subject of bankruptcy proceedings in the last five years.*

(3)
(4) The department shall establish an annual deadline for submitting applications for certification pursuant to this subdivision. The department shall also establish a triennial deadline for submitting renewals of certification pursuant to this subdivision. The department shall process and approve or deny applications within 120 days of receipt of a completed application.

(4)

1 (5) In determining whether an agency may be certified as a
2 qualified agency, the department, in consultation with the State
3 Department of Health Care Services, shall consider documents
4 and evidence to ensure that, among other things identified by the
5 department, the agency:

6 (A) Guarantees the continuity and reliability of services to
7 recipients.

8 (B) Guarantees the supervision of contract providers.

9 (C) Guarantees that each contract provider has been screened
10 in accordance with Sections 12305.81 and 12305.87.

11 (D) Guarantees that each contract provider is capable of and is
12 providing the service authorized.

13 (E) Complies with applicable rules and regulations regarding
14 civil rights ~~and those rights' relations with contract providers.~~

15 (F) Is capable of providing high-quality and reliable in-home
16 supportive services.

17 (G) Is capable of complying with this section, any rules or
18 regulations promulgated under this section, and any applicable
19 federal rules and regulations.

20 (H) Has not demonstrated a pattern and practice of violations
21 of state or federal laws and regulations based on any available
22 information.

23 ~~(5)~~

24 (6) An application for certification under this subdivision may
25 be denied by the department if the department determines that the
26 applying agency or a responsible party has violated a law or
27 regulation that is substantially related to the qualifications or duties
28 of the applying agency or is substantially related to the functions
29 of the business for which certification was, or is to be, issued, or
30 on the ground that an applying agency knowingly made a false
31 statement of fact required to be revealed in an application for
32 certification.

33 ~~(6)~~

34 (7) The department shall develop a written appeal process for
35 any agency dissatisfied with the decision of the department
36 regarding certification.

37 (e) (1) A qualified agency shall submit verified cost reports to
38 the department documenting that the qualified agency is in
39 compliance with subdivision (i). The cost reports shall be verified

1 by the responsible party and by a representative of a certified public
2 accounting firm.

3 (2) The verified cost reports required by paragraph (1) shall be
4 submitted within 90 calendar days after the end of each year and
5 within 60 calendar days after any change in compensation
6 negotiated by the Statewide Authority for individual providers has
7 gone into effect.

8 (f) A managed care health plan that has entered into a contract
9 in the manner prescribed in this section shall notify the department
10 within 30 days if the contract between the managed care health
11 plan and the qualified agency is suspended or terminated for any
12 reason.

13 ~~(g) Except as provided in subdivision (h), a~~ A recipient of
14 in-home supportive services may only be referred to a qualified
15 agency by the county, managed care health plan, or care
16 coordination teams. Qualified agencies, *counties, and managed*
17 *care health plans* shall establish procedures to ensure contract
18 limitations on caseload *specified in subdivision (k)* are being met
19 and there is coordination of information between managed care
20 health plans, qualified agencies, counties, and the department.
21 When a recipient has been referred ~~to~~ by the managed care health
22 plan, the qualified agency may provide services in the following
23 circumstances:

24 (1) It has been determined that the recipient is unable to function
25 as the employer of the provider due to dementia, cognitive
26 impairment, or other similar issues.

27 (2) The recipient has been identified to need services under this
28 mode by the care coordination team created pursuant to paragraph
29 (3) of subdivision (b) of Section 14186.

30 (3) The recipient is unable to retain a provider due to geographic
31 isolation and distance, authorized hours, or other reasons.

32 (h) When a recipient who is severely impaired, as described in
33 *subdivision (b) of Section 12303.4*, is referred to a qualified agency
34 by a managed care health plan, the county, or the care coordination
35 team, the qualified agency may provide emergency backup
36 services, as needed, when a provider is unavailable due to vacation,
37 illness, or other extraordinary circumstances, or the recipient is in
38 the process of hiring or replacing a provider. Qualified agencies
39 shall establish procedures to ensure contract limitations on caseload
40 are being met and there is coordination of information between

1 managed care health plans, qualified agencies, counties, and the
2 department. ~~Service~~

3 (i) ~~Service hours provided under the emergency backup criteria~~
4 ~~this section~~ shall be deducted from the in-home supportive services
5 recipient's current authorized hours of services and on an
6 hour-to-hour basis coordinated with the county and the department
7 to ensure hours are accurately captured and not duplicated per
8 in-home supportive services program requirements.

9 ~~(i)~~

10 (j) Wages and benefits for contract providers for their provision
11 of in-home supportive services shall not be less than the individual
12 provider rate negotiated by the Statewide Authority for the county
13 where services are provided.

14 ~~(j)~~

15 (k) Any contract entered into between a managed care health
16 plan and a qualified agency shall provide for a minimum amount
17 of service utilization and shall be approved by the department. In
18 no case, however, shall in-home supportive services recipients
19 referred for services exceed 5 percent of the *in-home supportive*
20 *services* caseload in the county where services are provided.

21 ~~(k)~~

22 (l) The department shall establish reasonable fees to be paid by
23 agencies and qualified agencies for administering the provisions
24 of this section, including, but not limited to, fees associated with
25 processing applications for certification and renewals of
26 certification, and fees associated with monitoring and enforcing
27 compliance, including any fees reflecting the costs associated with
28 investigating complaints, to the extent permissible by law. These
29 fees shall be sufficient to cover the department's reasonable costs
30 incurred in administering the provisions of this section.

31 (m) *The state shall be immune from liability resulting from the*
32 *state's implementation of this section or from the negligence or*
33 *intentional torts of a contract provider providing services pursuant*
34 *to this section.*

35 ~~(l)~~

36 (n) Notwithstanding the rulemaking provisions of the
37 Administrative Procedure Act (Chapter 3.5 (commencing with
38 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
39 Code), the department may implement, interpret, or make specific
40 this section by means of all-county letters, or similar instructions,

1 without taking regulatory action. Prior to issuing any letter or
2 similar instrument authorized pursuant to this section, the
3 department shall notify and consult with stakeholders, including
4 beneficiaries, providers, and advocates.

5 *SEC. 36. Section 12306 of the Welfare and Institutions Code,*
6 *as amended by Section 4 of Chapter 939 of the Statutes of 1992,*
7 *is amended to read:*

8 12306. (a) The state and counties shall share the annual cost
9 of providing services under this article as specified in this section.

10 (b) Except as provided in subdivisions (c) and (d), the state shall
11 pay to each county, from the General Fund and any federal funds
12 received under Title XX of the federal Social Security Act available
13 for that purpose, 65 percent of the cost of providing services under
14 this article, and each county shall pay 35 percent of the cost of
15 providing those services.

16 (c) For services eligible for federal funding pursuant to Title
17 XIX of the federal Social Security Act under the Medi-Cal program
18 and, except as provided in subdivisions (b) and (d) the state shall
19 pay to each county, from the General Fund and any funds available
20 for that purpose 65 percent of the nonfederal cost of providing
21 services under this article, and each county shall pay 35 percent
22 of the nonfederal cost of providing those services.

23 (d) (1) For the period of July 1, 1992, to June 30, 1994,
24 inclusive, the state's share of the cost of providing services under
25 this article shall be limited to the amount appropriated for that
26 purpose in the annual Budget Act.

27 (2) The department shall restore the funding reductions required
28 by subdivision (c) of Section 12301, fully or in part, as soon as
29 administratively practicable, if the amount appropriated from the
30 General Fund for the 1992–93 fiscal year under this article is
31 projected to exceed the sum of the General Fund expenditures
32 under Section 14132.95 and the actual General Fund expenditures
33 under this article for the 1992–93 fiscal year. The entire amount
34 of the excess shall be applied to the restoration. Services shall not
35 be restored under this paragraph until the Department of Finance
36 has determined that the restoration of services would result in no
37 additional costs to the state or to the counties relative to the
38 combined state appropriation and county matching funds for
39 in-home supportive services under this article in the 1992–93 fiscal
40 year.

1 (e) *This section shall become operative only if Chapter 45 of*
2 *the Statutes of 2012 is deemed inoperative pursuant to Section 15*
3 *of that chapter.*

4 SEC. 37. *Section 12306 of the Welfare and Institutions Code,*
5 *as amended by Section 9 of Chapter 45 of the Statutes of 2012, is*
6 *amended to read:*

7 12306. (a) The state and counties shall share the annual cost
8 of providing services under this article as specified in this section.

9 (b) Except as provided in subdivisions (c) and (d), the state shall
10 pay to each county, from the General Fund and any federal funds
11 received under Title XX of the federal Social Security Act available
12 for that purpose, 65 percent of the cost of providing services under
13 this article, and each county shall pay 35 percent of the cost of
14 providing those services.

15 (c) For services eligible for federal funding pursuant to Title
16 XIX of the federal Social Security Act under the Medi-Cal program
17 and, except as provided in subdivisions (b) and (d) the state shall
18 pay to each county, from the General Fund and any funds available
19 for that purpose 65 percent of the nonfederal cost of providing
20 services under this article, and each county shall pay 35 percent
21 of the nonfederal cost of providing those services.

22 (d) (1) For the period of July 1, 1992, to June 30, 1994,
23 inclusive, the state's share of the cost of providing services under
24 this article shall be limited to the amount appropriated for that
25 purpose in the annual Budget Act.

26 (2) The department shall restore the funding reductions required
27 by subdivision (c) of Section 12301, fully or in part, as soon as
28 administratively practicable, if the amount appropriated from the
29 General Fund for the 1992–93 fiscal year under this article is
30 projected to exceed the sum of the General Fund expenditures
31 under Section 14132.95 and the actual General Fund expenditures
32 under this article for the 1992–93 fiscal year. The entire amount
33 of the excess shall be applied to the restoration. Services shall not
34 be restored under this paragraph until the Department of Finance
35 has determined that the restoration of services would result in no
36 additional costs to the state or to the counties relative to the
37 combined state appropriation and county matching funds for
38 in-home supportive services under this article in the 1992–93 fiscal
39 year.

(e) For the period during which Section 12306.15 is operative, each county's share of the costs of providing services pursuant to this article specified in subdivisions (b) and (c) shall remain, but the County IHSS Maintenance of Effort pursuant to Section 12306.15 shall be in lieu of that share.

(f) *This section shall become inoperative only if Chapter 45 of the Statutes of 2012 is deemed inoperative pursuant to Section 15 of that chapter.*

SEC. 38. *Section 12306.1 of the Welfare and Institutions Code, as amended by Section 25 of Chapter 725 of the Statutes of 2010, is amended to read:*

12306.1. (a) When any increase in provider wages or benefits is negotiated or agreed to by a public authority or nonprofit consortium under Section 12301.6, then the county shall use county-only funds to fund both the county share and the state share, including employment taxes, of any increase in the cost of the program, unless otherwise provided for in the annual Budget Act or appropriated by statute. No increase in wages or benefits negotiated or agreed to pursuant to this section shall take effect unless and until, prior to its implementation, the department has obtained the approval of the State Department of Health Care Services for the increase pursuant to a determination that it is consistent with federal law and to ensure federal financial participation for the services under Title XIX of the federal Social Security Act, and unless and until all of the following conditions have been met:

(1) Each county has provided the department with documentation of the approval of the county board of supervisors of the proposed public authority or nonprofit consortium rate, including wages and related expenditures. The documentation shall be received by the department before the department and the State Department of Health Care Services may approve the increase.

(2) Each county has met department guidelines and regulatory requirements as a condition of receiving state participation in the rate.

(b) Any rate approved pursuant to subdivision (a) shall take effect commencing on the first day of the month subsequent to the month in which final approval is received from the department. The department may grant approval on a conditional basis, subject to the availability of funding.

1 (c) The state shall pay 65 percent, and each county shall pay 35
2 percent, of the nonfederal share of wage and benefit increases
3 negotiated by a public authority or nonprofit consortium pursuant
4 to Section 12301.6 and associated employment taxes, only in
5 accordance with subdivisions (d) to (f), inclusive.

6 (d) (1) The state shall participate as provided in subdivision (c)
7 in wages up to seven dollars and fifty cents (\$7.50) per hour and
8 individual health benefits up to sixty cents (\$0.60) per hour for all
9 public authority or nonprofit consortium providers. This paragraph
10 shall be operative for the 2000–01 fiscal year and each year
11 thereafter unless otherwise provided in paragraphs (2), (3), (4),
12 and (5), and without regard to when the wage and benefit increase
13 becomes effective.

14 (2) The state shall participate as provided in subdivision (c) in
15 a total of wages and individual health benefits up to nine dollars
16 and ten cents (\$9.10) per hour, if wages have reached at least seven
17 dollars and fifty cents (\$7.50) per hour. Counties shall determine,
18 pursuant to the collective bargaining process provided for in
19 subdivision (c) of Section 12301.6, what portion of the nine dollars
20 and ten cents (\$9.10) per hour shall be used to fund wage increases
21 above seven dollars and fifty cents (\$7.50) per hour or individual
22 health benefit increases, or both. This paragraph shall be operative
23 for the 2001–02 fiscal year and each fiscal year thereafter, unless
24 otherwise provided in paragraphs (3), (4), and (5).

25 (3) The state shall participate as provided in subdivision (c) in
26 a total of wages and individual health benefits up to ten dollars
27 and ten cents (\$10.10) per hour, if wages have reached at least
28 seven dollars and fifty cents (\$7.50) per hour. Counties shall
29 determine, pursuant to the collective bargaining process provided
30 for in subdivision (c) of Section 12301.6, what portion of the ten
31 dollars and ten cents (\$10.10) per hour shall be used to fund wage
32 increases above seven dollars and fifty cents (\$7.50) per hour or
33 individual health benefit increases, or both. This paragraph shall
34 be operative commencing with the next state fiscal year for which
35 the May Revision forecast of General Fund revenue, excluding
36 transfers, exceeds by at least 5 percent, the most current estimate
37 of revenue, excluding transfers, for the year in which paragraph
38 (2) became operative.

39 (4) The state shall participate as provided in subdivision (c) in
40 a total of wages and individual health benefits up to eleven dollars

1 and ten cents (\$11.10) per hour, if wages have reached at least
2 seven dollars and fifty cents (\$7.50) per hour. Counties shall
3 determine, pursuant to the collective bargaining process provided
4 for in subdivision (c) of Section 12301.6, what portion of the eleven
5 dollars and ten cents (\$11.10) per hour shall be used to fund wage
6 increases or individual health benefits, or both. This paragraph
7 shall be operative commencing with the next state fiscal year for
8 which the May Revision forecast of General Fund revenue,
9 excluding transfers, exceeds by at least 5 percent, the most current
10 estimate of revenues, excluding transfers, for the year in which
11 paragraph (3) became operative.

12 (5) The state shall participate as provided in subdivision (c) in
13 a total cost of wages and individual health benefits up to twelve
14 dollars and ten cents (\$12.10) per hour, if wages have reached at
15 least seven dollars and fifty cents (\$7.50) per hour. Counties shall
16 determine, pursuant to the collective bargaining process provided
17 for in subdivision (c) of Section 12301.6, what portion of the
18 twelve dollars and ten cents (\$12.10) per hour shall be used to fund
19 wage increases above seven dollars and fifty cents (\$7.50) per hour
20 or individual health benefit increases, or both. This paragraph shall
21 be operative commencing with the next state fiscal year for which
22 the May Revision forecast of General Fund revenue, excluding
23 transfers, exceeds by at least 5 percent, the most current estimate
24 of revenues, excluding transfers, for the year in which paragraph
25 (4) became operative.

26 (6) Notwithstanding paragraphs (2) to (5), inclusive, the state
27 shall participate as provided in subdivision (c) in a total cost of
28 wages up to nine dollars and fifty cents (\$9.50) per hour and in
29 individual health benefits up to sixty cents (\$0.60) per hour. This
30 paragraph shall become operative on July 1, 2009.

31 (7) (A) The Legislature finds and declares that injunctions issued
32 by the courts have prevented the state from implementing the
33 changes described in paragraph (6) during the pendency of
34 litigation. To avoid confusion for providers, recipients, and other
35 stakeholders, it is therefore the intent of the Legislature to
36 temporarily suspend the reductions described in that paragraph
37 until July 1, 2012, to allow the litigation to reach a final result.

38 (B) Paragraph (6) shall not be implemented until July 1, 2012,
39 and as of that date shall only be implemented if a court of
40 competent jurisdiction has issued an order, that is not subject to

1 appeal or for which the time to appeal has expired, upholding its
2 validity.

3 (e) (1) On or before May 14 immediately prior to the fiscal
4 year for which state participation is provided under paragraphs (2)
5 to (5), inclusive, of subdivision (d), the Director of Finance shall
6 certify to the Governor, the appropriate committees of the
7 Legislature, and the department that the condition for each
8 subdivision to become operative has been met.

9 (2) For purposes of certifications under paragraph (1), the
10 General Fund revenue forecast, excluding transfers, that is used
11 for the relevant fiscal year shall be calculated in a manner that is
12 consistent with the definition of General Fund revenues, excluding
13 transfers, that was used by the Department of Finance in the
14 2000–01 Governor’s Budget revenue forecast as reflected on
15 Schedule 8 of the Governor’s Budget.

16 (f) Any increase in overall state participation in wage and benefit
17 increases under paragraphs (2) to (5), inclusive, of subdivision (d),
18 shall be limited to a wage and benefit increase of one dollar (\$1)
19 per hour with respect to any fiscal year. With respect to actual
20 changes in specific wages and health benefits negotiated through
21 the collective bargaining process, the state shall participate in the
22 costs, as approved in subdivision (c), up to the maximum levels
23 as provided under paragraphs (2) to (6), inclusive, of subdivision
24 (d).

25 (g) *This section shall become operative only if Chapter 45 of*
26 *the Statutes of 2012 is deemed inoperative pursuant to Section 15*
27 *of that chapter.*

28 *SEC. 39. Section 12306.1 of the Welfare and Institutions Code,*
29 *as amended by Section 10 of Chapter 45 of the Statutes of 2012,*
30 *is amended to read:*

31 12306.1. (a) When any increase in provider wages or benefits
32 is negotiated or agreed to by a public authority or nonprofit
33 consortium under Section 12301.6, then the county shall use
34 county-only funds to fund both the county share and the state share,
35 including employment taxes, of any increase in the cost of the
36 program, unless otherwise provided for in the annual Budget Act
37 or appropriated by statute. No increase in wages or benefits
38 negotiated or agreed to pursuant to this section shall take effect
39 unless and until, prior to its implementation, the department has
40 obtained the approval of the State Department of Health Care

1 Services for the increase pursuant to a determination that it is
2 consistent with federal law and to ensure federal financial
3 participation for the services under Title XIX of the federal Social
4 Security Act, and unless and until all of the following conditions
5 have been met:

6 (1) Each county has provided the department with
7 documentation of the approval of the county board of supervisors
8 of the proposed public authority or nonprofit consortium rate,
9 including wages and related expenditures. The documentation shall
10 be received by the department before the department and the State
11 Department of Health Care Services may approve the increase.

12 (2) Each county has met department guidelines and regulatory
13 requirements as a condition of receiving state participation in the
14 rate.

15 (b) Any rate approved pursuant to subdivision (a) shall take
16 effect commencing on the first day of the month subsequent to the
17 month in which final approval is received from the department.
18 The department may grant approval on a conditional basis, subject
19 to the availability of funding.

20 (c) The state shall pay 65 percent, and each county shall pay 35
21 percent, of the nonfederal share of wage and benefit increases
22 negotiated by a public authority or nonprofit consortium pursuant
23 to Section 12301.6 and associated employment taxes, only in
24 accordance with subdivisions (d) to (f), inclusive.

25 (d) (1) The state shall participate as provided in subdivision (c)
26 in wages up to seven dollars and fifty cents (\$7.50) per hour and
27 individual health benefits up to sixty cents (\$0.60) per hour for all
28 public authority or nonprofit consortium providers. This paragraph
29 shall be operative for the 2000–01 fiscal year and each year
30 thereafter unless otherwise provided in paragraphs (2), (3), (4),
31 and (5), and without regard to when the wage and benefit increase
32 becomes effective.

33 (2) The state shall participate as provided in subdivision (c) in
34 a total of wages and individual health benefits up to nine dollars
35 and ten cents (\$9.10) per hour, if wages have reached at least seven
36 dollars and fifty cents (\$7.50) per hour. Counties shall determine,
37 pursuant to the collective bargaining process provided for in
38 subdivision (c) of Section 12301.6, what portion of the nine dollars
39 and ten cents (\$9.10) per hour shall be used to fund wage increases
40 above seven dollars and fifty cents (\$7.50) per hour or individual

1 health benefit increases, or both. This paragraph shall be operative
2 for the 2001–02 fiscal year and each fiscal year thereafter, unless
3 otherwise provided in paragraphs (3), (4), and (5).

4 (3) The state shall participate as provided in subdivision (c) in
5 a total of wages and individual health benefits up to ten dollars
6 and ten cents (\$10.10) per hour, if wages have reached at least
7 seven dollars and fifty cents (\$7.50) per hour. Counties shall
8 determine, pursuant to the collective bargaining process provided
9 for in subdivision (c) of Section 12301.6, what portion of the ten
10 dollars and ten cents (\$10.10) per hour shall be used to fund wage
11 increases above seven dollars and fifty cents (\$7.50) per hour or
12 individual health benefit increases, or both. This paragraph shall
13 be operative commencing with the next state fiscal year for which
14 the May Revision forecast of General Fund revenue, excluding
15 transfers, exceeds by at least 5 percent, the most current estimate
16 of revenue, excluding transfers, for the year in which paragraph
17 (2) became operative.

18 (4) The state shall participate as provided in subdivision (c) in
19 a total of wages and individual health benefits up to eleven dollars
20 and ten cents (\$11.10) per hour, if wages have reached at least
21 seven dollars and fifty cents (\$7.50) per hour. Counties shall
22 determine, pursuant to the collective bargaining process provided
23 for in subdivision (c) of Section 12301.6, what portion of the eleven
24 dollars and ten cents (\$11.10) per hour shall be used to fund wage
25 increases or individual health benefits, or both. This paragraph
26 shall be operative commencing with the next state fiscal year for
27 which the May Revision forecast of General Fund revenue,
28 excluding transfers, exceeds by at least 5 percent, the most current
29 estimate of revenues, excluding transfers, for the year in which
30 paragraph (3) became operative.

31 (5) The state shall participate as provided in subdivision (c) in
32 a total cost of wages and individual health benefits up to twelve
33 dollars and ten cents (\$12.10) per hour, if wages have reached at
34 least seven dollars and fifty cents (\$7.50) per hour. Counties shall
35 determine, pursuant to the collective bargaining process provided
36 for in subdivision (c) of Section 12301.6, what portion of the
37 twelve dollars and ten cents (\$12.10) per hour shall be used to fund
38 wage increases above seven dollars and fifty cents (\$7.50) per hour
39 or individual health benefit increases, or both. This paragraph shall
40 be operative commencing with the next state fiscal year for which

1 the May Revision forecast of General Fund revenue, excluding
2 transfers, exceeds by at least 5 percent, the most current estimate
3 of revenues, excluding transfers, for the year in which paragraph
4 (4) became operative.

5 (6) Notwithstanding paragraphs (2) to (5), inclusive, the state
6 shall participate as provided in subdivision (c) in a total cost of
7 wages up to nine dollars and fifty cents (\$9.50) per hour and in
8 individual health benefits up to sixty cents (\$0.60) per hour. This
9 paragraph shall become operative on July 1, 2009.

10 (7) (A) The Legislature finds and declares that injunctions
11 issued by the courts have prevented the state from implementing
12 the changes described in paragraph (6) during the pendency of
13 litigation. To avoid confusion for providers, recipients, and other
14 stakeholders, it is therefore the intent of the Legislature to
15 temporarily suspend the reductions described in that paragraph
16 until July 1, 2012, to allow the litigation to reach a final result.

17 (B) Paragraph (6) shall not be implemented until July 1, 2012,
18 and as of that date shall only be implemented if a court of
19 competent jurisdiction has issued an order, that is not subject to
20 appeal or for which the time to appeal has expired, upholding its
21 validity.

22 (e) (1) On or before May 14 immediately prior to the fiscal
23 year for which state participation is provided under paragraphs (2)
24 to (5), inclusive, of subdivision (d), the Director of Finance shall
25 certify to the Governor, the appropriate committees of the
26 Legislature, and the department that the condition for each
27 subdivision to become operative has been met.

28 (2) For purposes of certifications under paragraph (1), the
29 General Fund revenue forecast, excluding transfers, that is used
30 for the relevant fiscal year shall be calculated in a manner that is
31 consistent with the definition of General Fund revenues, excluding
32 transfers, that was used by the Department of Finance in the
33 2000–01 Governor’s Budget revenue forecast as reflected on
34 Schedule 8 of the Governor’s Budget.

35 (f) Any increase in overall state participation in wage and benefit
36 increases under paragraphs (2) to (5), inclusive, of subdivision (d),
37 shall be limited to a wage and benefit increase of one dollar (\$1)
38 per hour with respect to any fiscal year. With respect to actual
39 changes in specific wages and health benefits negotiated through
40 the collective bargaining process, the state shall participate in the

costs, as approved in subdivision (c), up to the maximum levels as provided under paragraphs (2) to (6), inclusive, of subdivision (d).

(g) For the period during which Section 12306.15 is operative, each county's share of the costs of negotiated wage and benefit increases specified in subdivision (c) shall remain, but the County IHSS Maintenance of Effort pursuant to Section 12306.15 shall be in lieu of that share.

(h) *This section shall become inoperative only if Chapter 45 of the Statutes of 2012 is deemed inoperative pursuant to Section 15 of that chapter.*

SEC. 40. Section 12306.15 of the Welfare and Institutions Code is amended to read:

12306.15. (a) Commencing July 1, 2012, all counties shall have a County IHSS Maintenance of Effort (MOE). In lieu of paying the nonfederal share of IHSS costs as specified in Sections 10101.1, 12306, and 12306.1, counties shall pay the County IHSS MOE.

(b) (1) The County IHSS MOE base year shall be the 2011–12 state fiscal year. The County IHSS MOE base shall be defined as the amount actually expended by each county on IHSS services and administration in the County IHSS MOE base year, as reported by each county to the ~~Department of Social Services~~ *department*, except that for administration, the County IHSS MOE base shall include no more or no less than the full match for the county's allocation from the state.

(2) Administration expenditures shall include both county administration and public authority administration. The County IHSS MOE base shall be unique to each individual county.

(3) For a county that made 14 months of health benefit payments for IHSS providers in the 2011–12 fiscal year, the Department of Finance shall adjust that county's County IHSS MOE base calculation.

(4) The County IHSS MOE base for each county shall be no less than each county's 2011–12 expenditures for the Personal Care Services Program and IHSS used in the caseload growth calculation pursuant to Section 17605.

(c) (1) On July 1, 2014, the County IHSS MOE base shall be adjusted by an inflation factor of 3.5 percent.

(2) Beginning on July 1, 2015, and annually thereafter, the County IHSS MOE from the previous year shall be adjusted by an inflation factor of 3.5 percent.

(3) (A) Notwithstanding paragraphs (1) and (2), in fiscal years when the combined total of 1991 realignment revenues received pursuant to Sections 11001.5, 6051.2, and 6201.2 of the Revenue and Taxation Code, for the prior fiscal year is less than the combined total received for the next prior fiscal year, the inflation factor shall be zero.

(B) The Department of Finance shall provide notification to the appropriate legislative fiscal committees and the California State Association of Counties by May 14 of each year whether the inflation factor will apply for the following fiscal year, based on the calculation in subparagraph (A).

(d) In addition to the adjustment in subdivision (c), the County IHSS MOE shall be adjusted for the annualized cost of ~~locally negotiated, mediated, or imposed~~ increases in provider wages or health benefits *that are locally negotiated, mediated, or imposed before the Statewide Authority assumes the responsibilities set forth in Section 110011 of the Government Code for a given county as provided in Section 12300.7.*

(1) (A) ~~If the State Department of Social Services department~~ approves the rates and other economic terms for a locally negotiated, mediated, or imposed increase in the provider wages, health benefits, or other economic terms pursuant to Section 12306.1 and paragraph (3), the state shall pay 65 percent, and ~~each~~ *the affected* county shall pay 35 percent, of the nonfederal share of the cost increase *in accordance with subparagraph (B).*

~~(B)~~ *(B) With respect to any increase in provider wages or health benefits submitted to the department for approval after July 1, 2012, the state shall participate in that increase as provided in subparagraph (A) in a total of wages and individual health benefits up to the amount specified in subdivision (d) of Section 12306.1.*

~~(B)~~ (C) The county share of these expenditures shall be included in the County IHSS MOE, in addition to the amount established under subdivisions (b) and (c). For any increase in provider wages or health benefits that becomes effective on a date other than July 1, the Department of Finance shall adjust the county's County IHSS

1 MOE to reflect the annualized cost of the county's share of the
2 nonfederal cost of the wage or health benefit increase.

3 (2) (A) If the ~~State Department of Social Services~~ *department*
4 does not approve the rates and other economic terms for a locally
5 negotiated, mediated, or imposed increase in the provider wages,
6 health benefits, or other economic terms pursuant to Section
7 12306.1 or paragraph (3), the county shall pay the entire nonfederal
8 share of the cost increase.

9 (B) The county share of these expenditures shall be included in
10 the County IHSS MOE, in addition to the amount established under
11 subdivisions (b) and (c). For any increase in provider wages or
12 health benefits that becomes effective on a date other than July 1,
13 the Department of Finance shall adjust the county's County IHSS
14 MOE to reflect the annualized cost of the county's share of the
15 nonfederal cost of the wage or health benefit increase.

16 (3) In addition to the rate approval requirements in Section
17 12306.1, it shall be presumed by the ~~State Department of Social~~
18 ~~Services~~ *department* that *locally* negotiated rates and other
19 economic terms within the following limits are approved:

20 (A) A net increase in the combined total of wages and health
21 benefits of up to 10 percent *per year* above the current combined
22 total of wages and health benefits paid in that county.

23 (B) A cumulative total of up to 20 percent in the sum of the
24 combined total of changes in wages or health benefits, or both,
25 until the Statewide Authority assumes the responsibilities set forth
26 in Section 110011 of the Government Code for a given county as
27 provided in Section 12300.7.

28 (e) The County IHSS MOE shall only be adjusted pursuant to
29 subdivisions (c) and (d).

30 (f) *The Department of Finance shall consult with the California*
31 *State Association of Counties to implement the County IHSS MOE,*
32 *which shall include, but not be limited to, determining each*
33 *county's County IHSS MOE base pursuant to subdivision (b),*
34 *developing the computation for the annualized amount pursuant*
35 *to subdivision (d), and the process by which it will be determined*
36 *that each county has met its County IHSS MOE each year.*

37 (f)

38 (g) If the demonstration project and the responsibilities of the
39 Statewide Authority become inoperative pursuant to Section 15,
40 16, or 17 of the act adding this section on a date other than July 1,

1 this section shall become inoperative on the first day of the
2 following state fiscal year.

3 *SEC. 41. Section 12330 of the Welfare and Institutions Code*
4 *is amended to read:*

5 12330. (a) No later than January 1, 2014, the ~~State Department~~
6 ~~of Social Services department~~, in consultation with the ~~department~~
7 *State Department of Health Care Services*, and in collaboration
8 with stakeholders including, but not limited to, IHSS recipients
9 and recognized employee representatives, shall develop a training
10 curriculum for IHSS providers that shall address issues of
11 consistency, accountability, and increased quality of care for IHSS
12 recipients.

13 (b) Participation in the training developed pursuant to
14 subdivision (a) shall be voluntary.

15 (c) Nothing in this section shall require that training be funded
16 by the state.

17 (d) This section shall not be construed to preclude a managed
18 care health plan, as part of the care coordination team, from
19 developing recipient-specific voluntary training curriculum for an
20 IHSS provider who has been integrated into a beneficiary's care
21 coordination team.

22 (e) The IHSS recipient shall continue to have the right to train
23 his or her individual provider.

24 *SEC. 42. Section 14186.35 of the Welfare and Institutions Code*
25 *is amended to read:*

26 14186.35. (a) Not sooner than March 1, 2013, in-home
27 supportive services (IHSS) shall be a Medi-Cal benefit available
28 through managed care health plans in a county where this article
29 is effective. Managed care health plans shall cover IHSS in
30 accordance with the standards and requirements set forth in Article
31 7 (commencing with Section 12300) of Chapter 3. Specifically,
32 managed care health plans shall do all of the following:

33 (1) Ensure access to, provision of, and payment for IHSS for
34 individuals who meet the eligibility criteria for IHSS.

35 (2) ~~Retain recipients~~² *Ensure recipients retain the* right to be
36 the employer, to select, engage, direct, supervise, schedule, and
37 terminate IHSS providers in accordance with Section 12301.6.

38 (3) Assume all financial liability for payment of IHSS services
39 for recipients receiving said services pursuant to managed care.

(4) Create a care coordination team, as needed and subject to the consumer's consent, that shall include county IHSS social workers, consumers and their representatives, managed care health plans, and may include IHSS providers and others as applicable, for individual care plan development. For individuals identified to participate in care coordination, managed care health plans shall include the consumer or his or her authorized representative, or both, health plan, county IHSS staff if the consumer is an IHSS recipient, Community-Based Adult Services (CBAS) and Multipurpose Senior Services Program (MSSP) case managers if the consumer is a CBAS or MSSP client, and may include others as identified by *unless the consumer objects. If the consumer is an IHSS recipient, his or her participation and the participation of his or her provider shall be at the recipient's option. The care coordination team shall include the consumer, his or her authorized representative, managed care health plan, county social services agency, Community Based Adult Services (CBAS) case manager for CBAS clients, Multipurpose Senior Services Program (MSSP) case manager for MSSP clients, and may include others as identified by the consumer.*

(5) Maintain the paramedical role and function of providers as authorized pursuant to Sections 12300 and 12301.

(6) Ensure compliance with all requirements set forth in Section 14132.956 and any resulting state plan amendments.

(7) Adhere to quality assurance provisions and individual data and other standards and requirements as specified by the State Department of Social Services including state and federal quality assurance requirements.

(8) Share confidential beneficiary data with the contractors specified in this section to improve care coordination, promote shared understanding of the consumer's needs, and ensure appropriate access to IHSS and other long-term services and supports.

(9) (A) Enter into a memorandum of understanding with a county agency and the county's public authority or nonprofit consortium pursuant to Section 12301.6 to continue to perform their respective functions and responsibilities pursuant to the existing ordinance or contract until the Director of Health Care Services provides notification pursuant to subdivision (a) of Section 12300.7 for that county.

(B) Following the notification pursuant to subdivision (a) of Section 12300.7, enter into a memorandum of understanding with the county agencies to perform the following activities:

(i) Assess, approve, and authorize each recipient's initial and continuing need for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3. County agency assessments shall be shared with the care coordination teams established under paragraph (4), when applicable, and the county agency thereafter may receive and consider additional input from the care coordination team.

(ii) Plans may contract with counties for additional assessments for purposes of paragraph (6) of subdivision (b) of Section 14186.

(iii) Enroll providers, conduct provider orientation, and retain enrollment documentation pursuant to Sections 12301.24 and 12305.81.

(iv) Conduct criminal background checks on all potential providers and exclude providers consistent with the provisions set forth in Sections 12305.81, 12305.86, and 12305.87.

(v) Provide assistance to IHSS recipients in finding eligible providers through the establishment of a provider registry as well as provide training for providers and recipients as set forth in Section 12301.6.

(vi) Refer all providers to the California In-Home Supportive Services Authority or nonprofit consortium for the purposes of ~~wages and wages~~, benefits, *and other terms and conditions of employment in accordance with subdivision (a) of Section 12300.7 and Title 23 (commencing with Section 110000) of the Government Code.*

(vii) Pursue overpayment recovery pursuant to Section 12305.83.

(viii) Perform quality assurance activities including routine case reviews, home visits, and detecting and reporting suspected fraud pursuant to Section 12305.71.

(ix) Share confidential data necessary to implement the provisions of this section.

(x) Appoint an advisory committee of not more than 11 people, and no less than 50 percent of the membership of the advisory committee shall be individuals who are current or past users of personal assistance paid for through public or private funds or recipients of IHSS services.

1 (xi) Continue to perform other functions necessary for the
2 administration of the IHSS program pursuant to Article 7
3 (commencing with Section 12300) of Chapter 3 and regulations
4 promulgated by the State Department of Social Services pursuant
5 to that article.

6 **A**

7 (C) A county may contract with ~~a nonprofit consortium~~, *an entity*
8 or may establish a public authority pursuant to Section 12301.6
9 for the performance of any or all of the activities set forth in a
10 contract with a managed care health plan pursuant to this section.

11 (10) Enter into a contract with the State Department of Social
12 Services to perform the following activities:

13 (A) Pay wages *and benefits* to IHSS providers in accordance
14 with the wages *and benefits* negotiated pursuant to Title 23
15 (commencing with Section 110000) of the Government Code.

16 (B) Perform obligations on behalf of the IHSS recipient as the
17 employer of his or her provider, including unemployment
18 compensation, disability benefits, applicable federal and state
19 taxes, and federal old age survivor's and disability insurance
20 through the state's payroll system for IHSS in accordance with
21 Sections 12302.2 and 12317.

22 (C) Provide technical assistance and support for all
23 payroll-related activities involving the state's payroll system for
24 IHSS, including, but not limited to, the monthly restaurant
25 allowance as set forth in Section 12303.7, the monthly cash
26 payment in advance as set forth in Section 12304, and the direct
27 deposit program as set forth in Section 12304.4.

28 (D) Share recipient and provider data with managed care health
29 plans for members who are receiving IHSS to support care
30 coordination.

31 (E) Provide an option for managed care health plans to
32 participate in quality monitoring activities conducted by the State
33 Department of Social Services pursuant to subdivision (f) of
34 Section 12305.7 for recipients who are plan members.

35 (11) In concert with the department, timely reimburse the ~~State~~
36 ~~Department of Social Services~~ *state* for payroll and other
37 obligations of the beneficiary as the employer, including
38 unemployment compensation, disability benefits, applicable federal
39 and state taxes, and federal old age survivors and disability
40 insurance benefits through the state's payroll system.

1 (12) In a county where services are provided in the homemaker
2 mode, enter into a contract with the county to implement the
3 provision of services pursuant to the homemaker mode as set forth
4 in Section 12302.

5 (13) Retain the IHSS individual provider mode as a choice
6 available to beneficiaries in all participating managed care health
7 plans in each county.

8 (14) In a county where services are provided pursuant to a
9 contract, *and as needed*, enter into a contract with a city, county,
10 or city and county agency, a local health district, a voluntary
11 nonprofit agency, or a proprietary agency as set forth in ~~Sections~~
12 *Section 12302 and 12302.4 in accordance with Section 12302.6.*

13 (15) Assume the financial risk associated with the cost of payroll
14 and associated activities set forth in paragraph (10).

15 (b) IHSS recipients receiving services through managed care
16 health plans shall retain all of the following:

17 (1) The responsibilities as the employer of the IHSS provider
18 for the purposes of hiring, firing, and supervising their provider
19 of choice as set forth in Section 12301.6.

20 (2) The ability to appeal any action relating to his or her
21 application for or receipt of services pursuant to Article 7
22 (commencing with Section 12300) of Chapter 3.

23 (3) The right to employ a provider applicant who has been
24 convicted of an offense specified in Section 12305.87 by submitting
25 a waiver of the exclusion.

26 (4) The ability to request a reassessment pursuant to Section
27 12301.1.

28 (c) The department and the State Department of Social Services,
29 along with the counties, managed care health plans, consumers,
30 advocates, and other stakeholders, shall develop a referral process
31 and informational materials for the appeals process that is
32 applicable to home- and community-based services plan benefits
33 authorized by a managed care health plan. The process established
34 by this paragraph shall ensure ease of access for consumers.

35 (d) For services provided through managed care health plans,
36 the IHSS provider shall continue to adhere to the requirements set
37 forth in ~~subdivisions (a) and subdivision (b) of Section 12301.24,~~
38 ~~subdivision (a) of Section 12301.25, subdivision (a) of Section~~
39 ~~12305.81, and subdivision (a) of Section 12306.5.~~

1 (e) In accordance with Section 14186.2, as the provision of
2 IHSS transitions to managed care health plans in a phased-in
3 approach, the State Department of Social Services shall do all of
4 the following:

5 (1) Retain program administration functions, in coordination
6 with the department, including policy development, provider
7 appeals and general exceptions, and quality assurance and program
8 integrity for the IHSS program in accordance with Article 7
9 (commencing with Section 12300) of Chapter 3.

10 (2) Perform the obligations on behalf of the recipient as
11 employer relating to workers' compensation as set forth in Section
12 12302.2 and Section 12302.21 for those entities that have entered
13 into a contract with a managed care health plan pursuant to
14 Section 12302.6.

15 (3) Retain responsibilities related to the hearing process for
16 IHSS recipient appeals as set forth in Chapter 7 (commencing with
17 Section 10950) of Part 2.

18 (4) Continue to have access to and provide confidential recipient
19 data necessary for the administration of the program.

20 (f) *A managed care health plan shall not be deemed be the*
21 *employer of an individual in-home supportive services provider*
22 *referred to recipients under this section for purposes of liability*
23 *due to the negligence or intentional torts of the individual provider.*

24 SEC. 43. *Section 18906.55 of the Welfare and Institutions Code*
25 *is amended to read:*

26 18906.55. (a) Notwithstanding Section 18906.5 or any other
27 law, as a result of the substantial fiscal pressures on counties
28 created by the unprecedented and unanticipated CalFresh caseload
29 growth associated with the economic downturn beginning in 2008,
30 and in order to provide fiscal relief to counties as a result of this
31 growth, a county that meets the maintenance of effort requirement
32 pursuant to Section 15204.4 entirely through expenditures for the
33 administration of CalFresh in state fiscal years 2010–11–~~and~~,
34 2011–12, *and 2012–13* shall receive the full General Fund
35 allocation for administration of CalFresh without paying the
36 county's share of the nonfederal costs for the amount above the
37 maintenance of effort required by Section 15204.4.

38 (b) The full General Fund allocation for administration of
39 CalFresh pursuant to subdivision (a) shall equal 35 percent of the
40 total federal and nonfederal projected funding need for

1 administration of CalFresh. The methodology used for calculating
2 those projections shall remain the same as it was for the 2009–10
3 fiscal year for as long as this section remains in effect.

4 (c) No relief to the county share of administrative costs
5 authorized by this section shall result in any increased cost to the
6 General Fund as determined in subdivision (b).

7 (d) Subdivision (a) shall not be interpreted to prevent a county
8 from expending funds in excess of the amount required to meet
9 the maintenance of effort required by Section 15204.4.

10 (e) This section shall become inoperative on July 1, ~~2012~~ 2013,
11 and, as of January 1, ~~2013~~ 2014, is repealed, unless a later enacted
12 statute, that becomes operative on or before January 1, ~~2013~~ 2014,
13 deletes or extends the dates on which it becomes inoperative and
14 is repealed.

15 *SEC. 44. Section 18987.7 of the Welfare and Institutions Code*
16 *is amended to read:*

17 18987.7. (a) The State Department of Social Services shall
18 convene a workgroup of public and private nonprofit stakeholders
19 that shall develop a plan for transforming the current system of
20 group care for foster children or youth, and for children with
21 serious emotional disorders (SED), into a system of residentially
22 based services. The stakeholders may include, but not be limited
23 to, representatives of the department ~~and of the State Department~~
24 ~~of Mental Health~~, the State Department of Education, *the State*
25 *Department of Health Care Services*, the State Department of
26 Alcohol and Drug Programs, and the Department of Corrections
27 and Rehabilitation; county child welfare, probation, mental health,
28 and alcohol and drug programs; local education authorities; current
29 and former foster youth, parents of foster children or youth, and
30 children or youth with SED; private nonprofit agencies operating
31 group homes; children’s advocates; and other interested parties.

32 (b) The plan developed pursuant to this chapter shall utilize the
33 reports delivered to the Legislature pursuant to Section 75 of
34 Chapter 311 of the Statutes of 1998 by the Steering Committee
35 for the Reexamination of the Role of Group Care in a Family-Based
36 System of Care in June 2001 and August 2002, and the
37 “Framework for a New System for Residentially-Based Services
38 in California” published in March 2006.

39 (c) In the development, implementation, and subsequent
40 revisions of the plan developed pursuant to subdivision (a), the

1 knowledge and experience gained by counties and private nonprofit
2 agencies through the operation of their residentially based services
3 programs created under voluntary agreements made pursuant to
4 Section 18987.72, including, but not limited to, the results of
5 evaluations prepared pursuant to paragraph (3) of subdivision (c)
6 of Section 18987.72 shall be utilized.

7 (d) The workgroup described in subdivision (a) shall be the
8 workgroup described in Section 11461.2. The responsibilities
9 described in subdivisions (b) and (c) shall be assumed by the
10 workgroup and the recommendations shall be submitted as set
11 forth in subdivision (f) of Section 11461.2.

12 *SEC. 45. Section 17 of Chapter 45 of the Statutes of 2012 is*
13 *amended to read:*

14 ~~SEC.~~

15 *Sec. 17.* In the event the director decides to entirely forego the
16 provision of services as specified in Section 14186.4 of the Welfare
17 and Institutions Code, Section 6531.5 and Title 23 (*commencing*
18 *with Section 110000*) of the Government Code and Sections
19 12300.5, 12300.6, and 12300.7 of the Welfare and Institutions
20 Code as added by this act shall cease to be implemented except as
21 follows:

22 (a) For an agreement that has been negotiated and approved by
23 the Statewide Authority, the Statewide Authority shall continue
24 to retain its authority pursuant to Section 6531.5 and Title 23
25 (*commencing with Section 110000*) of the Government Code and
26 Sections 12300.5, 12300.6, 12300.7, and 12302.6 of the Welfare
27 and Institutions Code as added by this act, and remain the employer
28 of record for all individual providers covered by the agreement
29 until the agreement expires or is subject to renegotiation, whereby
30 the authority of the Statewide Authority shall terminate and the
31 county shall be the employer of record in accordance with Section
32 12302.25 of the Welfare and Institutions Code and may establish
33 an employer of record pursuant to Section 12301.6 of the Welfare
34 and Institutions Code.

35 (b) For an agreement that has been assumed by the Statewide
36 Authority that was negotiated and approved by a predecessor
37 agency, the Statewide Authority shall cease being the employer
38 of record and the county shall be reestablished as the employer of
39 record for purposes of bargaining and in accordance with Section
40 12302.25 of the Welfare and Institutions Code, and may establish

1 an employer of record pursuant to Section 12301.6 of the Welfare
2 and Institutions Code.

3 *SEC. 46. The sum of one thousand dollars (\$1,000) is hereby*
4 *appropriated from the General Fund to the California Health and*
5 *Human Services Agency, for administration.*

6 *SEC. 47. If the Commission on State Mandates determines that*
7 *this act contains costs mandated by the state, reimbursement to*
8 *local agencies and school districts for those costs shall be made*
9 *pursuant to Part 7 (commencing with Section 17500) of Division*
10 *4 of Title 2 of the Government Code.*

11 *SEC. 48. This act is a bill providing for appropriations related*
12 *to the Budget Bill within the meaning of subdivision (e) of Section*
13 *12 of Article IV of the California Constitution, has been identified*
14 *as related to the budget in the Budget Bill, and shall take effect*
15 *immediately.*

16 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
17 ~~changes relating to the Budget Act of 2012.~~